

ATTACHMENT 67

HIGHLY CONFIDENTIAL

Page 1

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF PENNSYLVANIA
3

4 IN RE: PROCESSED EGG PRODUCTS MDL NO. 2002
5 ANTITRUST LITIGATION 08-md-02002
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7 THIS DOCUMENT RELATES TO:

8 ALL ACTIONS
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10
11 -- HIGHLY CONFIDENTIAL --
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13 VIDEOTAPED DEPOSITION OF STEVE STORM
14

15 Taken at Young, Wells Williams,
16 4450 Old Canton Road, Suite 200,
17 Jackson, Mississippi, on Thursday,
18 April 24, 2014, beginning at 9:25 a.m.
19

20 REPORTED BY:

21 CELESTE O. WERKHEISER, RMR
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HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 DANIEL E. BIRKHAUSER, ESQUIRE Bramson, Plutzik, Mahler & Birkhauser 3 2125 Oak Grove Road, Suite 120 Walnut Creek, California 94598 4 Telephone: (925) 945-0200 Fax: (925) 945-8792</p> <p>5 ATTORNEY FOR INDIRECT PURCHASER PLAINTIFFS</p> <p>6 AMY N. L. HANSON, ESQUIRE (VIA TELEPHONE) 7 Keller Rohrbach, LLP 1201 3rd Avenue, Suite 3200 8 Seattle, Washington 98101 Telephone: (206) 224-7435</p> <p>9 ATTORNEY FOR DIRECT PURCHASER PLAINTIFFS</p> <p>10 WILLIAM GREEN, ESQUIRE (VIA TELEPHONE) 11 Stinson Leonard Street, LLP 150 South Fifth Street 12 Suite 2300 Minneapolis, MN 55402 13 Telephone: (612) 335-1500 Fax: (612) 335-1657</p> <p>14 ATTORNEY FOR DEFENDANT, MICHAEL FOODS, INC.</p> <p>15 BRIAN ROBISON, ESQUIRE 16 Gibson, Dunn & Crutcher, LLP 2100 McKinney Avenue 17 Dallas, Texas 75201-6912 18 Telephone: (214) 698-3100 Fax: (214) 571-2928</p> <p>19 ROBERT L. HOLLADAY, JR., ESQUIRE 20 Cal-Maine Foods, Inc. 3320 W. Woodrow Wilson Avenue 21 Jackson, Mississippi 39209 Telephone: (601) 948-4813</p> <p>22 ATTORNEYS FOR DEFENDANT, CAL-MAINE FOODS</p> <p>23 24 25 Videographer: Darren Guastella</p>	<p style="text-align: right;">Page 4</p> <p>1 T-A-B-L-E O-F C-O-N-T-E-N-T-S</p> <p>2 Examination By: Page</p> <p>3 Mr. Birkhauser.....7</p> <p>4 Ms. Hanson.....207</p> <p>5 Stipulation.....3</p> <p>6</p> <p>7 Exhibits:</p> <p>8 Exh 77 Marketing Committee Meeting 2/23/00.....40</p> <p>9 Exh 78 United Voices Newsletter 12/4/00.....50</p> <p>10 Exh 79 Cal-A-Gram dated 5/13/98.....57</p> <p>11 Exh 80 UEP Marketing Committee Minutes 5/16/00.....63</p> <p>12</p> <p>13 Exh 81 Various Cal-Maine Documents.....64</p> <p>14</p> <p>15 Exh 82 Record of Flock Reduction Program.....71</p> <p>16</p> <p>17 Exh 83 Record of Flock Reduction Program.....77</p> <p>18</p> <p>19 Exh 84 Record of Flock Reduction Program.....79</p> <p>20</p> <p>21 Exh 85 UEP Producer Committee for Animal Welfare 5/15/00 Minutes.....82</p> <p>22</p> <p>23 Exh 86 Letter from Gene Gregory to UEP Producer Committee.....100</p> <p>24</p> <p>25 Exh 87 E-mail dated 4/15/02 From Joe Fortin and Attachments.....105</p> <p>26</p> <p>27 Exh 88 UEP Producer Committee for Animal Welfare.....108</p> <p>28</p> <p>29 Exh 89 General Manager's Meeting 7/27-28/05.....151</p> <p>30</p> <p>31 Exh 90 Cal-A-Gram 10/28/02 from Matt Arrowsmith.....171</p> <p>32</p>
<p style="text-align: right;">Page 3</p> <p>1 STIPULATION</p> <p>2 It is hereby stipulated and agreed by</p> <p>3 and between the parties hereto, through their</p> <p>4 respective attorneys of record, that this</p> <p>5 deposition may be taken at the time and place</p> <p>6 hereinbefore set forth, by Celeste O.</p> <p>7 Werkheiser, Registered Merit Reporter and Notary</p> <p>8 Public, pursuant to the Federal Rules of Civil</p> <p>9 Procedure, as amended;</p> <p>10 That the formality of READING AND</p> <p>11 SIGNING is specifically NOT WAIVED;</p> <p>12 That all objections, except as to the</p> <p>13 form of the questions and the responsiveness of</p> <p>14 the answers, are reserved until such time as</p> <p>15 this deposition, or any part thereof, may be</p> <p>16 used or is sought to be used in evidence.</p> <p>17 ---</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 EXHIBITS: Continued</p> <p>2 Exh 91 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<p style="text-align: right;">Page 6</p> <p>1 VIDEOGRAPHER: 2 My name is Darren Guastella of 3 Veritext. The date today is April 24, 2014. 4 The time is approximately 9:25 a.m. This is the 5 deposition being held at the offices of Young, 6 Wells & Williams located at 4450 Old Canton 7 Road, Suite 200, Jackson, Mississippi 39211. 8 The caption of this case is In Re: 9 Processed Egg Products Antitrust Litigation in 10 the United States District Court, Eastern 11 District of Pennsylvania. The name of the 12 witness is Steve Storm. 13 At this time the attorneys will 14 identify themselves and the parties they 15 represent. Afterwards, our court reporter, 16 Celeste Werkheiser, will swear in the witness 17 and we may proceed. 18 MR. BIRKHAUSER: 19 My name is Dan Birkhaeuser. I'm with 20 Bramson, Plutzik, Mahler, & Birkhaeuser, and I 21 represent the indirect purchaser plaintiffs. 22 MR. ROBISON: 23 Brian Robison with Gibson, Dunn & 24 Crutcher for the defendant, Cal-Maine Foods. 25 MR. HOLLADAY:</p>	<p style="text-align: right;">Page 8</p> <p>1 begin by taking your deposition in your 2 individual knowledge, and then after we finish 3 that, we'll begin your deposition as a corporate 4 designee. Do you understand? 5 A. I do. 6 Q. Thank you. Have you ever had your 7 deposition taken before? 8 A. Once. 9 Q. And how long ago was that? 10 A. It's been six or seven years ago, 11 perhaps. 12 Q. Generally, what was the subject 13 matter of the deposition? 14 A. It involved a court case pertaining 15 to the Illinois River in northeastern Arkansas. 16 Q. It's been a little while, so let me 17 just run through a couple of highlights of the 18 deposition process. The court reporter is 19 taking down all of my questions and your 20 answers, so it's important that you answer 21 audibly. In normal conversation we nod our 22 heads and say uh-huh, but that's very hard for 23 the written record, so if you can answer audibly 24 and say either yes or no, we'll have a very 25 clean record.</p>
<p style="text-align: right;">Page 7</p> <p>1 Rob Holladay, Cal-Maine Foods. 2 COURT REPORTER: 3 On the phone? 4 MR. GREEN: 5 William Green of Stinson Leonard 6 Street representing Michael Foods. 7 MS. HANSON: 8 And Amy Hanson from Keller Rohrback 9 on behalf of the direct purchaser plaintiffs. 10 STEVE STORM, 11 having been first duly sworn, was 12 examined and testified, as follows: 13 EXAMINATION 14 BY MR. BIRKHAUSER: 15 Q. Good morning, Mr. Storm. 16 A. Good morning. 17 Q. Thank you for coming today and sorry 18 about the slight delay. 19 As we were just talking before the 20 deposition officially commenced, we are -- we 21 have two jobs ahead of us. The first is to take 22 your individual deposition, and the second is, 23 you've been designated as a corporate 24 representative for certain topics. And it's my 25 preference to do the two separately. So we'll</p>	<p style="text-align: right;">Page 9</p> <p>1 Also sometimes you might think you 2 know exactly where I'm going and want to answer 3 my question before I ask it, but that also makes 4 it very difficult for the court reporter when 5 two people are talking to transcribe the words, 6 so if you could wait for me to complete my 7 question before you give an answer, and I'll try 8 to do the same. 9 Is there any reason that you are 10 unable to give truthful testimony today? Any 11 illness or medication or anything like that? 12 A. None that I'm aware of. 13 Q. Okay. If at any time you don't 14 understand one of my questions, just ask and 15 I'll try to rephrase it for you. Otherwise, 16 I'll assume that you've understood my question. 17 A. Okay. 18 Q. Okay. Have you ever testified before 19 a governmental agency? 20 A. No. What about being a juror in 21 court? I've been a juror before. 22 Q. Okay. 23 A. But that's not testimony. 24 Q. That's not testimony. What's your 25 current position at Cal-Maine?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A. I'm an officer of the company, vice 2 president, and my area is operations. 3 Q. Okay. So vice president of 4 operations? 5 A. Yes. One of several. 6 Q. Okay. Who else is a vice president 7 of operations? 8 A. Bob Scott, Marc Ashby, Kevin 9 Lastowski, Chris Myers. We have a brand-new 10 one, Will Webb. We have a brand-new one, Will 11 Webb. 12 Q. Will Webb? 13 A. Uh-huh. 14 Q. Given that you have a number of vice 15 presidents of operation, how do you divide 16 responsibilities among yourselves? 17 A. We have assigned areas of 18 responsibility pertaining to various separate 19 production and processing sales locations. 20 Q. And what is your area of 21 responsibility? 22 A. Over my time with Cal-Maine, it's 23 been varied from one group to another. 24 Currently I worked most closely with operations 25 in northwest Arkansas.</p>	<p style="text-align: right;">Page 12</p> <p>1 Lakewood, New Jersey for two years with Seaboard 2 Foods. Returned to Jackson in 1988 as an 3 operational VP and have been here since. 4 Q. What -- you said that now you're 5 principally responsible for operations in 6 northwest Arkansas. 7 A. Yes, sir. 8 Q. And how has that changed over the 9 years as vice president of operations? What 10 other responsibilities have you had? 11 A. Well, initially there were two of us, 12 and the company's grown over time, and we've 13 expanded that supervisory role of operations VP 14 as the company's grown. Within that time I've 15 been associated with various locations -- is 16 that your question? 17 Q. Yes. 18 A. From South Carolina, Kentucky, 19 Mississippi, Arkansas, Ohio, Texas, Kansas, 20 Utah. Not all of those at one time. 21 Q. Okay. So I guess my real question 22 is: Throughout the time that you've been a vice 23 president of operations, your responsibilities 24 have been the same, just you've been responsible 25 for different geographic areas.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. For how long have you been employed 2 by Cal-Maine? 3 A. First employed by Cal-Maine in 1972. 4 Q. And if we could just run through 5 quickly your -- the jobs that you've had at 6 Cal-Maine. So in '72, what did you do? 7 A. In '72 I was a management trainee for 8 a short while and became a plant manager later 9 that year in Arlington, Texas. A year later I 10 moved -- was a sales representative in the 11 central Mississippi area for about a year. 12 In '74 through '77, I believe, I was 13 in Louisville, Kentucky, ran a processing and 14 distribution operation for the company there. 15 '77 through '78 I returned to Jackson and worked 16 with all of our processing plants as a staff 17 position from the Jackson office. In '78 to '79 18 I was in Metter, Georgia. 19 COURT REPORTER: 20 Where Georgia? 21 A. Metter, M-e-t-t-e-r, as a general 22 manager of our chicken egg operation there. In 23 '79 I moved to Lubbock, Texas. Actually Post, 24 Texas, was the location of our facility and was 25 there six years, seven years. Then moved to</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Essentially so. 2 Q. Okay. Although the operation's 3 grown. 4 A. Essentially so. 5 Q. You said initially there were just 6 two vice presidents of operation. Was the other 7 Mr. Scott? 8 A. Mr. Jack Self who passed away 9 recently. 10 Q. And when did Mr. Scott join the 11 company? 12 A. He came with the Sunny Fresh Foods 13 acquisition in the summer of '89. 14 Q. Did he come in as a vice president of 15 operations? 16 A. He did. 17 Q. So for a period of time then there 18 were the three of you. 19 A. That's correct. 20 Q. Okay. And who do you report to? 21 A. Today I report to Sherman Miller, 22 who's our chief operating officer. 23 Q. And how long have you reported to Mr. 24 Miller? 25 A. Approximately two and a half years</p>

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<p style="text-align: right;">Page 14</p> <p>1 when that position was, I guess, created and he 2 assumed that position. 3 Q. Prior to that time, who did you 4 report to? 5 A. Dolph Baker. 6 Q. Approximately how many people 7 currently are under your direct supervision? 8 A. Oh, I guess probably 150 or 60, 9 something like that. 10 Q. Okay. 11 A. Well, I'll clarify that. Under the 12 realm of supervision, I guess about two or three 13 are under my direct supervision. 14 Q. And those would be regional managers? 15 A. We have a general manager at each 16 facility. 17 Q. Okay. 18 A. And those managers report to 19 operating vice presidents. 20 Q. Okay. 21 A. I guess I should also mention that 22 Ryn McDonald has reported to me over the last 23 several years. She's director of food safety 24 for the company. 25 Q. So that's an additional area of your</p>	<p style="text-align: right;">Page 16</p> <p>1 none -- nothing specific I would say. 2 Q. Okay. Did they help refresh your 3 recollection? 4 A. Just helped clarify. I remembered 5 everything for the most part, but just to be 6 sure. 7 Q. Details -- they helped you refresh 8 some of the details? 9 A. Yes. 10 Q. Do you recall the name of any of the 11 internal documents you looked at? 12 A. Mostly just some that I had prepared 13 like on when we -- a list of acquisitions and 14 dates and construction and things like that. 15 Q. You mentioned the animal welfare 16 committee. That would be the animal welfare 17 committee of the UEP? 18 A. Yes, sir. 19 Q. And what does UEP stand for? 20 A. United Egg Producers. A co-op. 21 Q. And just -- we're going to talk more 22 about the animal welfare committee when we do 23 your designee deposition, but just generally, 24 when did you first join the animal welfare 25 committee?</p>
<p style="text-align: right;">Page 15</p> <p>1 responsibility? 2 A. Right. I also wind up with a lot of 3 projects now and again. 4 MR. ROBISON: 5 R-y-n is her first name. Ryn 6 McDonald. 7 MR. BIRKHAEUSER: 8 Q. Okay. 9 A. Actually it's now Divine. She 10 married. 11 MR. ROBISON: 12 I'm behind the times. 13 MR. BIRKHAEUSER: 14 Q. But she changed her last name, not 15 her first name, right? 16 A. Right. 17 Q. You never know. What did you do to 18 prepare for your deposition today? 19 A. I reviewed -- I was advised that most 20 of my testimony would be in relationship to the 21 activity I had on the animal welfare committee, 22 so I reviewed as much as possible the documents 23 concerning that just to refresh. 24 Q. Did you review any other documents? 25 A. A few internal documents just -- but</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I think when it was initially formed. 2 Q. And what year was that? 3 A. About 1999. About approximately 4 then. 5 Q. Were you ever on any committees other 6 than the animal welfare committee? 7 MR. ROBISON: 8 Object to form. 9 A. Within what period of time? 10 MR. BIRKHAEUSER: 11 Q. First of all, I'm restricting my 12 question to the UEP. 13 A. Yes. 14 Q. What other committees were you a 15 member of on the UEP? 16 A. Currently also on the environmental 17 committee for UEP, and I believe for a short 18 while I was on a food safety committee. 19 Q. Did the UEP have subcommittees? 20 A. What do you mean the UEP? 21 Q. United Egg Producers. 22 A. Occasionally there was a subcommittee 23 for the animal welfare committee. 24 Q. And were you a member of any of the 25 subcommittees?</p>

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<p style="text-align: right;">Page 18</p> <p>1 A. I was.</p> <p>2 Q. And which ones?</p> <p>3 A. The audit subcommittee.</p> <p>4 Q. Okay.</p> <p>5 A. I think that's the only one.</p> <p>6 Q. I think it might help in our</p> <p>7 questioning, I would like to get a picture of</p> <p>8 Cal-Maine and Cal-Maine's operations, and I</p> <p>9 noticed an investor presentation on Cal-Maine's</p> <p>10 website. So I would like to mark this as the</p> <p>11 next in order.</p> <p>12 MR. ROBISON:</p> <p>13 It's actually 15 from last week. Do</p> <p>14 you want to go by the 15?</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 It's fine with me.</p> <p>17 MR. ROBISON:</p> <p>18 I'm handing the witness Exhibit 15</p> <p>19 from last week's three depositions. Cal-Maine</p> <p>20 investor presentation, March of 2014. It's on</p> <p>21 the Cal-Maine website.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. Can you just generally familiarize</p> <p>24 yourself with Exhibit 15?</p> <p>25 A. (Pause.) Okay. I've looked through</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yes.</p> <p>2 Q. Egg producers including Ralston</p> <p>3 Purina?</p> <p>4 MR. ROBISON:</p> <p>5 Object to form.</p> <p>6 A. So what's the question?</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. I'm just asking you to verify that</p> <p>9 that's been the corporate strategy.</p> <p>10 A. The corporate strategy has always</p> <p>11 been to growth or acquisition.</p> <p>12 Q. And that is something that falls</p> <p>13 within your purview, as companies are acquired,</p> <p>14 you manage their facilities, correct?</p> <p>15 A. As companies are acquired, then they</p> <p>16 are assigned to a certain VP or locations are</p> <p>17 assigned and then they are managed as Cal-Maine.</p> <p>18 Q. Okay. The presentation says that</p> <p>19 Cal-Maine is a fully integrated egg producer.</p> <p>20 What does that mean?</p> <p>21 A. To me it means that it's vertically</p> <p>22 integrated, that we're a producer but we also</p> <p>23 have feed mills and pullet rearing facilities</p> <p>24 for replacement hens. We do have a hatchery to</p> <p>25 provide our baby chicks. We have grading plants</p>
<p style="text-align: right;">Page 19</p> <p>1 it all.</p> <p>2 Q. Thank you. Did you have any role in</p> <p>3 preparing Exhibit 15?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Do you know who did?</p> <p>6 A. No, I don't know.</p> <p>7 Q. It indicates that it was prepared in</p> <p>8 March 2014. Does it appear to be -- does it</p> <p>9 accurately display the current --</p> <p>10 A. Oh, I think so.</p> <p>11 Q. -- operation of Cal-Maine?</p> <p>12 A. Certainly.</p> <p>13 Q. Okay. So on page 3, you see that</p> <p>14 Cal-Maine is the largest producer and marketer</p> <p>15 of shell eggs in the United States? That's</p> <p>16 accurate?</p> <p>17 A. To my knowledge.</p> <p>18 Q. Okay. And it's been the largest egg</p> <p>19 producer for --</p> <p>20 A. A number of years.</p> <p>21 Q. 15 years?</p> <p>22 A. Or longer.</p> <p>23 Q. Or longer. And Cal-Maine throughout</p> <p>24 the last 15 or 20 years has acquired a number of</p> <p>25 other companies?</p>	<p style="text-align: right;">Page 21</p> <p>1 to pack the eggs, and we're involved in the</p> <p>2 distribution of product to the customers.</p> <p>3 Q. And sale.</p> <p>4 A. And sales.</p> <p>5 Q. You have a sales staff.</p> <p>6 A. Yes.</p> <p>7 Q. Let me just ask you to turn to page</p> <p>8 7. To your knowledge, is this an accurate</p> <p>9 representation of Cal-Maine's annual net sales</p> <p>10 from the year 2006 to the year 2013?</p> <p>11 A. I'm sure it must be.</p> <p>12 Q. Okay. So net sales have increased</p> <p>13 every year from 2008 to 2013?</p> <p>14 MR. ROBISON:</p> <p>15 Object to form. Mischaracterizes.</p> <p>16 A. Pardon me?</p> <p>17 MR. ROBISON:</p> <p>18 You can go ahead and answer. I'm</p> <p>19 just objecting to the question.</p> <p>20 A. They have -- they have increased.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. I should have mentioned this before,</p> <p>23 but from time to time your attorney may object</p> <p>24 to a question.</p> <p>25 A. Okay.</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. And that's just for the record, so if 2 you can keep the question in mind and then give 3 an answer. If ever your attorney feels that a 4 question invades a privilege, he might instruct 5 you not to answer, and we will deal with that if 6 it comes up. But other than that, if there's no 7 instruction, then keep the question in mind and 8 give an answer. 9 The majority of Cal-Maine's sales are 10 to retail customers; is that correct? 11 A. I think there's a page on that in 12 here if I remember seeing it. 13 Q. Okay. 14 A. Page 12 indicates that. 15 Q. Sales to food service or sales to 16 large entities normally, correct? 17 A. Ask it again, please. 18 Q. What do sales to food service entail? 19 A. That's the segment of the industry 20 that supplies food for preparation of meals, and 21 it's those people that handle eggs. 22 Q. Does Cal-Maine also deliver shell 23 eggs to the food service segment? 24 A. Some. Apparently 11 percent 25 according to this.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. And we won't get into this a real lot 2 during the deposition, but just generally, when 3 Cal-Maine negotiates with its customers, it 4 quotes prices that are based upon the Urner 5 Barry index; is that correct? 6 MR. ROBISON: 7 Object to form. 8 A. Yes. They negotiate a basis for 9 doing business relative to that market. 10 MR. BIRKHAEUSER: 11 Q. Okay. So it might be Urner Barry 12 plus or minus a certain factor. 13 A. Depending upon services. 14 Q. On page 19, the investor presentation 15 describes Cal-Maine's growth strategy pursuing 16 acquisition opportunities. Has this been the 17 strategy the entire time you've been with 18 Cal-Maine? 19 MR. ROBISON: 20 Object to form. Foundation. 21 A. I'm not sure I understand this. I 22 wouldn't actually know the strategy for the 23 entire time I've been at Cal-Maine, but I'm not 24 sure what this means on this page. 25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. Just briefly if you could turn 2 to page 14. Could you tell me what page 14 3 depicts? 4 A. It's a graph and it's entitled 5 monthly hen inventory, and it shows the months 6 of the year and it involves four complete years 7 and the very first month or so of 2014. So 2006 8 -- no, excuse me. They're not consecutive 9 years. It's got 2006 on here and then 2011, 10 2012, 2013, and the beginning of 2014. 11 Q. And is this monthly hen inventory 12 nationwide? 13 A. Yes, it's a national inventory and 14 these figures are derived from the USDA report 15 called Chicken and Egg Report. They collect 16 these numbers. 17 Q. The very next page discusses egg 18 prices. Just very briefly, can you tell me what 19 Urner Barry is? 20 A. Well, the page -- really it discusses 21 the egg market; not necessarily the egg price. 22 Urner Barry is a third party that quotes a daily 23 market for eggs by size, by region, and has been 24 accepted as a benchmark pricing mechanism for as 25 long as I've been in the business.</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Has Cal-Maine acquired other 2 companies during your tenure? 3 A. Absolutely. That's the reason for 4 the growth that we've demonstrated. 5 Q. Okay. And then on page 29, financial 6 summary, do you believe that page 29 accurately 7 depicts the annual net sales and operating 8 income of Cal-Maine during the years depicted? 9 A. I'm sure it must. 10 Q. So the company's had a positive 11 operating income every year during the years 12 depicted? 13 MR. ROBISON: 14 Object to form. Foundation. 15 A. Yeah, it was pretty close to break 16 even in 2006. 17 MR. BIRKHAEUSER: 18 Q. So that would be \$4.5 million? 19 A. Yeah. Looks like about 1 percent of 20 sales at that time. 21 Q. And a high of 223 million in 2008? 22 A. Yeah. There was one really big year, 23 and after that it's dwindled from that point. 24 Q. You used the term "vertically 25 integrated" in your answer a few minutes ago. I</p>

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<p style="text-align: right;">Page 26</p> <p>1 would like to ask you a couple of questions 2 about egg production generally. So layers are 3 the hens that actually lay eggs, correct? 4 A. Yes. 5 Q. And then pullets -- what are pullets? 6 A. In our vernacular, they're 7 replacement hens. 8 Q. They're hens that are young, correct? 9 A. Typically from day old to about 10 replacement age of 17, 18 weeks of age. 11 Q. And I'm searching for a verb here, 12 but Cal-Maine produces its own pullets? 13 A. Yes. We grow our own pullets. 14 Q. And Cal-Maine grows its own chicks. 15 A. We do have a hatchery and we produce 16 the majority of our baby chicks. 17 Q. Does Cal-Maine do that in a central 18 location or does it do it on a regional basis? 19 A. Primary hatchery is located in 20 Mendenhall, Mississippi. There's a secondary 21 hatchery in Florida. 22 Q. Okay. And then the other type of 23 chicken that we have is a breeder, correct? 24 A. Well, a breeder is the parent stock. 25 Q. And Cal-Maine grows its own breeders?</p>	<p style="text-align: right;">Page 28</p> <p>1 that most desirable to do that. Sometimes it's 2 not the way we operate. 3 Q. Okay. And Cal-Maine grades its own 4 eggs? 5 A. Yes. 6 Q. And what's involved in grading? 7 A. Washing, sizing, grading for defects, 8 removing the defects, cracked eggs, dirty eggs, 9 cartoning 88 percent of the time. 11 percent of 10 the time we put them in a flat or tray for food 11 service according to the sheet we looked at 12 while ago. 13 Q. Okay. We talked about Urner Barry a 14 minute ago. It's true, is it not, that egg 15 prices fluctuate from time to time? 16 A. Yes, it's true. They change almost 17 daily. 18 Q. Have you heard the term "price 19 in-elasticity" in your tenure as VP of 20 operations? 21 A. I've heard that. 22 Q. And what do you understand that to 23 mean? 24 A. That's an economic term that's 25 assigned to a product that -- whose demand</p>
<p style="text-align: right;">Page 27</p> <p>1 A. We purchase breeders day old, raise 2 them to maturity, and put them into the breeder 3 houses at that time. 4 Q. Okay. 5 A. Both male and female. 6 Q. And then Cal-Maine produces its own 7 feed; is that correct? 8 A. Well, some exception, but mostly. 9 Q. The far majority of the feed that 10 Cal-Maine uses to feed its pullets, chicks, 11 breeders, Cal-Maine produces itself. 12 A. We have a couple locations that we do 13 not produce our own feed. 14 Q. Does Cal-Maine produce its feed in 15 more than one location? 16 A. Most locations; all others. 17 Q. In most locations -- most of the 18 regional locations, it has a feed-growing 19 facility; is that what you're saying? 20 A. Ask me again. I don't know if -- 21 Q. I just didn't understand your answer. 22 A. Typically there's a feed mill 23 associated with a production operation. 24 Q. Okay. 25 A. That's our desirable -- we consider</p>	<p style="text-align: right;">Page 29</p> <p>1 changes. It's usually assigned to demand or 2 used in reference to demand, that product 3 consumption or demand has not increased or 4 decreased as quickly or as directly as supply. 5 Q. So the price of -- if a price goes 6 up, then the demand will still be the same. 7 MR. ROBISON: 8 Object to form. 9 A. You know, I'm -- as far as a complete 10 definition of that, I'm not qualified to give 11 you that. But generally, movements in supply 12 would create movements in demand but not to the 13 same extent. 14 MR. BIRKHAUSER: 15 Q. It's true that egg prices are 16 in-elastic; is that correct? 17 MR. ROBISON: 18 Object to form. Foundation. 19 A. I don't know. That's beyond my realm 20 of expertise. 21 MR. BIRKHAUSER: 22 Q. Would you agree that the demand for 23 eggs is generally level? 24 MR. ROBISON: 25 Same objection.</p>

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<p style="text-align: right;">Page 30</p> <p>1 A. Depends on what you mean by that.</p> <p>2 That's -- generally I would say no.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. What --</p> <p>5 A. How do you define "demand"?</p> <p>6 Q. Well, consumer demand. So there are</p> <p>7 seasons when eggs are -- when the demand is</p> <p>8 greater; is that correct?</p> <p>9 A. That's exactly right.</p> <p>10 Q. Okay. But other than that, on an</p> <p>11 annual basis, the demand is fairly level and</p> <p>12 rises with population growth, correct?</p> <p>13 MR. ROBISON:</p> <p>14 Same objections.</p> <p>15 A. You know, that's -- I don't know if I</p> <p>16 can really answer that for you. There are a lot</p> <p>17 of things that can make demand increase and</p> <p>18 decrease and we've -- I was -- early in my</p> <p>19 career the American Heart Association came out</p> <p>20 against eggs and consumer demand went down for</p> <p>21 years and stayed down. Later, much, much later,</p> <p>22 they began to support it and, you know, we think</p> <p>23 maybe it went up some from that. It's hard to</p> <p>24 know. There were these diets that were --</p> <p>25 included a lot of eggs, like South Beach and</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Yes and no. It was part of the --</p> <p>2 actual hands-on in the chicken house management</p> <p>3 was done by our local managers at each facility.</p> <p>4 Production managers worked there exclusively,</p> <p>5 the general manager had a great deal of time</p> <p>6 spent there, and beyond that, I have looked at</p> <p>7 it, reviewed, checked, visited, but no hands-on</p> <p>8 every day kind of involvement in the individual</p> <p>9 flocks.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. So if I understand correctly, it was</p> <p>12 your job to manage the managers.</p> <p>13 A. Yes.</p> <p>14 Q. And the managers would manage the</p> <p>15 flock.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. I want to get some terminology</p> <p>18 defined, but there are a number of ways that one</p> <p>19 can manage the flock, correct?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form.</p> <p>22 A. I suppose so. I don't know.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. What I mean, I'm speaking in terms of</p> <p>25 either increasing production or decreasing</p>
<p style="text-align: right;">Page 31</p> <p>1 different ones that seem to support consumption</p> <p>2 of eggs for a while as long as these diets were</p> <p>3 in favor, so there are things that change demand</p> <p>4 other than the seasonal trends and other than</p> <p>5 population.</p> <p>6 MR. BIRKHAEUSER:</p> <p>7 Q. As part of your duties at Cal-Maine,</p> <p>8 did you manage the flock to manage production?</p> <p>9 MR. ROBISON:</p> <p>10 Object to form.</p> <p>11 A. For all of Cal-Maine, no.</p> <p>12 MR. BIRKHAEUSER:</p> <p>13 Q. For your assigned areas, did you</p> <p>14 manage the flock to manage production?</p> <p>15 MR. ROBISON:</p> <p>16 Same objection. Vague.</p> <p>17 A. Yes. Or I was involved in it.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. You were involved in flock</p> <p>20 management?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Was that part of your</p> <p>23 day-to-day responsibilities?</p> <p>24 MR. ROBISON:</p> <p>25 Same objection.</p>	<p style="text-align: right;">Page 33</p> <p>1 production. So, for example, the flock can be</p> <p>2 molted, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And what does molting do?</p> <p>5 MR. ROBISON:</p> <p>6 Object to form. Vague.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. I agree. Let me withdraw the</p> <p>9 question. What does molting mean?</p> <p>10 A. Molting is physiological things that</p> <p>11 birds do. It's a rest period in their</p> <p>12 productivity. Within the industry we -- force</p> <p>13 molting involves trying to molt all the birds at</p> <p>14 one time within that flock, that house.</p> <p>15 Q. And what effect does molting have on</p> <p>16 egg production?</p> <p>17 MR. ROBISON:</p> <p>18 Objection. Vague. Foundation.</p> <p>19 A. They temporarily go out of production</p> <p>20 and into a rest period and then resume</p> <p>21 production at a renewed larger increased rate of</p> <p>22 lay.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. So for the time that the flock is in</p> <p>25 molt, it does not produce.</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. That's correct. But they also -- but</p> <p>2 also the life of the flock is extended.</p> <p>3 Q. And it increases production --</p> <p>4 A. Total eggs.</p> <p>5 Q. -- as opposed to not molting.</p> <p>6 A. Right.</p> <p>7 Q. Okay. Cal-Maine also slaughters</p> <p>8 hens.</p> <p>9 A. At the end of economic life they are</p> <p>10 slaughtered.</p> <p>11 Q. That obviously affects total</p> <p>12 production, correct?</p> <p>13 MR. ROBISON:</p> <p>14 Object to form. Foundation.</p> <p>15 A. I don't know how to answer that. I</p> <p>16 mean, it's part of the production cycle that</p> <p>17 every week some hens are slaughtered and every</p> <p>18 week they're replaced and you keep right on, and</p> <p>19 so does that reduce? I don't know if it does.</p> <p>20 I wouldn't necessarily say that. But that house</p> <p>21 is not as busy next week, but there's rotation</p> <p>22 continually going on.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. It's one way the flock is managed,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. One can also sell hens, correct?</p> <p>2 Does Cal-Maine sell hens?</p> <p>3 MR. ROBISON:</p> <p>4 Object to form.</p> <p>5 A. Actually, we receive income for fowl</p> <p>6 that go to the slaughter house. Is that what</p> <p>7 you mean by selling hens?</p> <p>8 MR. BIRKHAEUSER:</p> <p>9 Q. Does it ever sell hens that are</p> <p>10 currently producing?</p> <p>11 A. I can't say it's never happened, but</p> <p>12 it's never happened on a very large scale.</p> <p>13 Q. Okay. During your tenure at</p> <p>14 Cal-Maine, United Egg Producers has asked its</p> <p>15 members to lower the production of eggs,</p> <p>16 correct?</p> <p>17 MR. ROBISON:</p> <p>18 Object to form. Vague and</p> <p>19 foundation.</p> <p>20 A. I've seen some things to that effect.</p> <p>21 I've heard of them. Those were the kind of</p> <p>22 things that happened at the board of directors'</p> <p>23 level. I'm not a member of the board of</p> <p>24 directors.</p> <p>25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 35</p> <p>1 A. Pardon me? Say again.</p> <p>2 Q. It's one way the flock is managed.</p> <p>3 A. Still don't understand that exactly.</p> <p>4 What do you mean managed?</p> <p>5 Q. The slaughter of hens is --</p> <p>6 A. Well, there comes a point when no</p> <p>7 matter what you feed and what you do management</p> <p>8 wise, the bird is no longer economic. At that</p> <p>9 point it makes sense to dispose of those birds,</p> <p>10 they're spent hens, and bring in pullets and</p> <p>11 renew the process. So that's just the normal</p> <p>12 cycle.</p> <p>13 Q. It's all part of the production</p> <p>14 process and the management of the flock.</p> <p>15 A. As a matter of fact, we try to do</p> <p>16 that within an egg complex in a manner that it's</p> <p>17 progressively -- so that we present the same</p> <p>18 number of eggs every day to the plant, the same</p> <p>19 size -- the same size quality and so on. If</p> <p>20 they were all very old, it would be poor</p> <p>21 quality. If they were all very young, it would</p> <p>22 be small eggs and we couldn't meet our</p> <p>23 customers' needs, so to achieve a blend from the</p> <p>24 customer, this is managed progressively through</p> <p>25 the complex and routinely sold.</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. When you say the board of directors,</p> <p>2 you mean the board of directors of the United</p> <p>3 Egg Producers?</p> <p>4 A. That's exactly what I mean, yes.</p> <p>5 Q. Were any Cal-Maine officers who are</p> <p>6 employees on the board of directors?</p> <p>7 A. Yes.</p> <p>8 Q. Who?</p> <p>9 MR. ROBISON:</p> <p>10 Objection. Vague.</p> <p>11 A. Currently, Dolph Baker is on the</p> <p>12 board.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. Have there been other Cal-Maine</p> <p>15 officers or directors that have held board</p> <p>16 positions of the UEP in the past?</p> <p>17 A. Yes.</p> <p>18 MR. ROBISON:</p> <p>19 Same objection.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. Who?</p> <p>22 A. Ken Looper did at one point. Fred</p> <p>23 Adams may have. But I'm not certain about that.</p> <p>24 Q. Okay. Have you ever had attended</p> <p>25 board of director meetings of the United Egg</p>

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<p style="text-align: right;">Page 38</p> <p>1 Producers?</p> <p>2 A. From time to time, but not in a long</p> <p>3 while.</p> <p>4 Q. If I just say UEP for the rest of the</p> <p>5 deposition, will you understand that as the</p> <p>6 United Egg Producers?</p> <p>7 A. I will.</p> <p>8 Q. Okay. As vice president of</p> <p>9 operations, were you ever involved in managing</p> <p>10 the flock to lower production pursuant to an UEP</p> <p>11 request?</p> <p>12 MR. ROBISON:</p> <p>13 Object to form. Foundation. Vague.</p> <p>14 A. Probably. But we do that within our</p> <p>15 own company to meet our own needs routinely. We</p> <p>16 try to increase production in terms of maximum</p> <p>17 demand and decrease production in terms of lower</p> <p>18 demand. Right now it's the week after Easter,</p> <p>19 and we're trying to lower production because our</p> <p>20 customers don't want that many eggs.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. Sure.</p> <p>23 A. So we get involved in that.</p> <p>24 Q. When the UEP asked its members to</p> <p>25 lower production, the purpose was to increase</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Okay.</p> <p>3 A. It can also have no effect.</p> <p>4 Q. Are you aware of any UEP flock</p> <p>5 reduction program that Cal-Maine did not</p> <p>6 participate in?</p> <p>7 MR. ROBISON:</p> <p>8 Objection. Foundation. Vague.</p> <p>9 A. None. I'm not aware of any.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Can you mark this as the next</p> <p>12 exhibit?</p> <p>13 (Exhibit 77 marked.)</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. I've handed you Exhibit 77, which for</p> <p>16 the record, is document bearing the Bates stamp</p> <p>17 UE0307758 through 777. And it's a marketing</p> <p>18 committee meeting dated February 23rd, 2000.</p> <p>19 MR. GREEN:</p> <p>20 Excuse me. This is William Green.</p> <p>21 I'm wondering if somebody closer to the</p> <p>22 microphone could repeat the Bates number.</p> <p>23 MR. ROBISON:</p> <p>24 Sure. It's UE0307758-77.</p> <p>25 MR. GREEN:</p>
<p style="text-align: right;">Page 39</p> <p>1 the price of eggs; is that correct?</p> <p>2 MR. ROBISON:</p> <p>3 Object to form. Vague. Form.</p> <p>4 Foundation.</p> <p>5 A. I guess I wouldn't know for sure the</p> <p>6 purpose.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. No one ever told you that?</p> <p>9 A. But usually those programs occur</p> <p>10 during times of poor economics for the industry.</p> <p>11 Q. Okay. It's true, is it not, that</p> <p>12 small decreases in production can have a large</p> <p>13 impact on price of eggs.</p> <p>14 MR. ROBISON:</p> <p>15 Object to form. Foundation. Vague.</p> <p>16 Incomplete.</p> <p>17 A. That was your point a while ago. You</p> <p>18 were talking about in-elasticity.</p> <p>19 MR. BIRKHAEUSER:</p> <p>20 Q. And that's a correct statement.</p> <p>21 MR. ROBISON:</p> <p>22 Same objections.</p> <p>23 A. It can have that effect. I don't</p> <p>24 think that's the only thing that makes that</p> <p>25 happen.</p>	<p style="text-align: right;">Page 41</p> <p>1 Thank you. The questioner is hard to</p> <p>2 hear, so I appreciate it.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 I can try to move up. Is this better</p> <p>5 on the phone?</p> <p>6 MR. GREEN:</p> <p>7 Much better. Thank you.</p> <p>8 MR. BIRKHAEUSER:</p> <p>9 Okay.</p> <p>10 Q. On the first page of the -- Exhibit</p> <p>11 77, it lists committee members of the marketing</p> <p>12 committee. And Mr. Dolph Baker is listed as</p> <p>13 chairman. Who's Mr. Looper?</p> <p>14 A. He is also with Cal-Maine.</p> <p>15 Q. And what is Mr. Looper's position?</p> <p>16 MR. ROBISON:</p> <p>17 Object to form. Vague.</p> <p>18 A. He's retired.</p> <p>19 MR. BIRKHAEUSER:</p> <p>20 Q. How long has he been retired?</p> <p>21 A. I don't know exactly. Four or five</p> <p>22 years maybe. Something like that.</p> <p>23 Q. Does he currently consult with</p> <p>24 Cal-Maine in any capacity?</p> <p>25 A. No. He's ill and unable to.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q. When was the last time you saw Mr. 2 Looper?</p> <p>3 A. I would say it's probably been over 4 two years since I've seen him at all, and before 5 that, maybe not any in any business for, say, 6 two years before that, not any business setting 7 but just in passing I might have seen him once 8 or twice. He's been out of the picture for some 9 time.</p> <p>10 Q. Okay. I would like to have you turn 11 to the page that ends in 61.</p> <p>12 A. Yes. I have that page.</p> <p>13 Q. Okay. There are a number of names at 14 the very top. I just want to ask you a couple 15 questions about those names. We know who Dolph 16 Baker is. Who's Jim Dean?</p> <p>17 A. He's a producer from the Midwest.</p> <p>18 Q. Okay. What company is he with?</p> <p>19 A. He's got two or three companies 20 lately. He's involved in several companies.</p> <p>21 Q. And who's Mr. Brackett?</p> <p>22 A. I'm not sure.</p> <p>23 Q. How about Mr. McDaniel?</p> <p>24 A. I'm not sure.</p> <p>25 Q. Mr. Looper, we've discussed. Mr.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Producer from South Carolina.</p> <p>2 Q. Mr. Fortin?</p> <p>3 A. Joe Fortin, 99 would have been from 4 Connecticut, a producer.</p> <p>5 Q. Mr. Lofgren?</p> <p>6 A. Producer from southern California.</p> <p>7 Q. And Chad Gregory?</p> <p>8 A. And Billie Jo Corell, both with UEP.</p> <p>9 Q. In the last paragraph on page 761, it 10 says that Mr. Baker called on Gene Gregory to 11 present a hatch-reduction program. And that 12 program would consist of total pullets hatched 13 would be approximately 224 million, and the goal 14 would be to reduce the pullets hatched in the 15 year 2000 by 5 percent. Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. And it suggests that every producer 18 be encouraged to start the program on January 1, 19 2000. Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. Do you recall having discussions with 22 Mr. Baker about a flock reduction program?</p> <p>23 A. Yes. We did this.</p> <p>24 Q. Okay. Do you recall what the flock 25 reduction program entailed?</p>
<p style="text-align: right;">Page 43</p> <p>1 Reesman?</p> <p>2 A. He was with UEP.</p> <p>3 Q. Okay. Mr. Gregory?</p> <p>4 A. UEP.</p> <p>5 Q. Mr. Hammond?</p> <p>6 A. John Hammond was with Hillandale or 7 he moved to Tampa Farms Services somewhere; one 8 of the Florida companies.</p> <p>9 Q. Mr. Dixon?</p> <p>10 A. I should know. I don't remember 11 right now.</p> <p>12 Q. Mr. Deffner?</p> <p>13 A. With National Foods in Washington.</p> <p>14 Q. Mr. Krouse?</p> <p>15 A. Midwest Services in Indiana.</p> <p>16 Q. Mr. Casey?</p> <p>17 A. Hy-Line Hatcheries, or Hy-Line 18 Genetics are what they go by, in Indiana.</p> <p>19 Q. Mr. Newman?</p> <p>20 A. He was -- I think Wally was with 21 Chore-Time at that time or part-time.</p> <p>22 Q. Mr. DeVries?</p> <p>23 A. Butch DeVries was a producer from 24 Illinois.</p> <p>25 Q. Mr. Wicker?</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Just what you pointed out. Just 2 reducing the hatch for --</p> <p>3 Q. And how was that accomplished?</p> <p>4 A. In our case we shut down our hatchery 5 for two or three weeks.</p> <p>6 Q. And were you responsible for carrying 7 out the hatch-reduction program?</p> <p>8 A. Not in a broad sense, no.</p> <p>9 Q. Well, as vice president of 10 operations, did you then communicate with the 11 general -- the regional general managers?</p> <p>12 A. The ones I had responsibility for.</p> <p>13 Q. Okay. And you communicated with 14 them. Were you the one that developed the plan 15 to accomplish the hatch reduction?</p> <p>16 A. No.</p> <p>17 Q. And so how exactly was it managed?</p> <p>18 Did you and Mr. Baker sit down and decide how 19 you were going to reduce your pullets by 5 20 percent?</p> <p>21 MR. ROBISON:</p> <p>22 Object to form.</p> <p>23 A. No. I already told you that the 24 company shut down the hatchery and didn't 25 produce babies to grow into pullets.</p>

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<p style="text-align: right;">Page 46</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Q. Can you turn to page 762? And right</p> <p>3 about in the middle of the page, there's a</p> <p>4 formal motion.</p> <p>5 A. I see it.</p> <p>6 Q. And it's noted that the motion</p> <p>7 carried. And the motion was: By no later than</p> <p>8 January 1st, each member should reduce their</p> <p>9 flock by 5 percent and maintain this through</p> <p>10 July 1, 2000.</p> <p>11 MR. ROBISON:</p> <p>12 Object to form. Mischaracterizes.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. Is that correct?</p> <p>15 A. I don't see -- I'm sure it must have</p> <p>16 been carried, but where does it say that?</p> <p>17 MR. ROBISON:</p> <p>18 Motion is here. Recommend the</p> <p>19 following.</p> <p>20 A. Oh, motion carried. Yes.</p> <p>21 MR. BIRKHAEUSER:</p> <p>22 Q. Okay.</p> <p>23 A. Now, your question, please?</p> <p>24 Q. That by no later than January 1st,</p> <p>25 each member should reduce their flock by 5</p>	<p style="text-align: right;">Page 48</p> <p>1 Object to form. Mischaracterizes the</p> <p>2 document.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. At Cal-Maine.</p> <p>5 A. I told you that I remembered that we</p> <p>6 reduced pullets by shutting down the hatchery.</p> <p>7 I do recall that.</p> <p>8 Q. Okay. So you remember that, but you</p> <p>9 don't remember the molt.</p> <p>10 A. Not specifically. It could have --</p> <p>11 probably happened, but I don't remember that</p> <p>12 specifically.</p> <p>13 Q. Okay.</p> <p>14 A. You know, my point of view on that --</p> <p>15 I'm not a member of this committee, and so I was</p> <p>16 operating from the standpoint of dealing with</p> <p>17 the operations assigned to me at that time, and</p> <p>18 so exactly why the company did what, I'm not --</p> <p>19 wasn't necessarily a party to.</p> <p>20 Q. Sure. And I know that you didn't</p> <p>21 attend this meeting. It just occurred to me</p> <p>22 that directives like this would affect</p> <p>23 operations and that's why I'm asking you.</p> <p>24 A. Yeah. I remember the pullets being</p> <p>25 --</p>
<p style="text-align: right;">Page 47</p> <p>1 percent and maintain this through July 1, 2000.</p> <p>2 MR. ROBISON:</p> <p>3 Mischaracterizes the document.</p> <p>4 A. I see that.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. Okay. And do you recall</p> <p>7 accomplishing that at Cal-Maine?</p> <p>8 A. You know, I can't be sure how all of</p> <p>9 that happened.</p> <p>10 Q. It also says by no later than January</p> <p>11 1st, each member should molt 5 percent of their</p> <p>12 flock.</p> <p>13 MR. ROBISON:</p> <p>14 Same objection.</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 Q. Do you recall accomplishing that at</p> <p>17 Cal-Maine?</p> <p>18 A. No. There's nothing -- I mean, we</p> <p>19 consistently vary when and how we molt within</p> <p>20 the company just routinely, so I would not</p> <p>21 remember that specifically.</p> <p>22 Q. Maybe I misunderstood. I thought</p> <p>23 that you told me that you did participate in</p> <p>24 this program that was suggested by Mr. Baker.</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Okay.</p> <p>2 A. But we continually -- I mean, we</p> <p>3 routinely two or three times a year affect</p> <p>4 operations on our own by changing when we molt,</p> <p>5 how we molt, when we sell hens, so that's just</p> <p>6 routine for us. That would not stand out.</p> <p>7 Q. Sure. But this was -- in addition to</p> <p>8 Cal-Maine's regular chick reduction, then it was</p> <p>9 clean --</p> <p>10 A. Yeah. It wouldn't look any</p> <p>11 different, though, from my perspective.</p> <p>12 Q. I see. It would just be an</p> <p>13 additional --</p> <p>14 A. Just something going on.</p> <p>15 Q. -- hatch reduction. Okay. As part</p> <p>16 of your responsibilities, did you familiarize</p> <p>17 yourself with industry statistics regarding the</p> <p>18 hatch?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form. Vague.</p> <p>21 A. Not specifically.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. Was that more in Mr. Looper's --</p> <p>24 A. That would be more in Mr. Baker and</p> <p>25 Mr. Looper's area.</p>

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<p style="text-align: right;">Page 50</p> <p>1 Q. Okay. So, for example, did you keep 2 abreast of the nationwide hen inventory? 3 MR. ROBISON: 4 Objection. Vague. 5 A. I routinely see reports on that. 6 MR. BIRKHAEUSER: 7 Q. From the United States Department of 8 Agriculture? 9 A. They put out information that's 10 accumulated into a report which I receive. 11 Q. But is that something that you keep 12 track of regularly? 13 MR. ROBISON: 14 Object to form. Vague. 15 A. What do you mean keep track of? I 16 see it regularly. I don't do anything with it. 17 MR. BIRKHAEUSER: 18 Q. Okay. 19 (Exhibit 78 marked.) 20 Q. The next document we're going to mark 21 as Exhibit 78 is a document with the Bates 22 number UE0065655, and it's a United Voices, 23 December 4, 2000 newsletter. 24 Can you tell me what the United 25 Voices is?</p>	<p style="text-align: right;">Page 52</p> <p>1 Object to form. Mischaracterizes. 2 MR. BIRKHAEUSER: 3 Q. And in the first paragraph it 4 concludes that: "We now believe the actual 5 average flock size for 2000 will be 269.2 6 million hens or 4.5 million less than 7 forecasted." 8 Do you recall any conversations with 9 Mr. Baker about this subject? 10 A. No. 11 Q. In the third paragraph, it says, 12 "Improved egg prices have come with these 13 changes. Large price for the last five months 14 of 2000 are expected to average 10 cents per 15 dozen over prices during the same period of 16 1999." 17 Do you recall any conversations with 18 Mr. Baker about improvement in price? 19 MR. ROBISON: 20 Object to form. Vague. 21 A. Not specifically, no. 22 MR. BIRKHAEUSER: 23 Q. Do you recall any conversations at 24 all with Mr. Baker about the success of the 25 flock reduction program?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. This is a publication of the UEP. 2 Q. And did you get a copy of the 3 newsletter? 4 MR. ROBISON: 5 Object to form. Vague. 6 A. Yes. 7 MR. BIRKHAEUSER: 8 Q. And did you read it? 9 MR. ROBISON: 10 Vague. 11 A. I feel like I did. I routinely 12 receive the copies of this. I'm on their 13 mailing list, and I do try to read them. 14 MR. BIRKHAEUSER: 15 Q. And it does have news that's 16 pertinent to your responsibilities at Cal-Maine? 17 A. Well, I mean, not that any action by 18 me would be initiated from reading this. It 19 just lets me know what's going on within the 20 industry. 21 Q. Okay. I just want to direct your 22 attention to page 2. And this is referring to 23 the supply reduction program that we saw in the 24 marketing committee notes in Exhibit 77. 25 MR. ROBISON:</p>	<p style="text-align: right;">Page 53</p> <p>1 MR. ROBISON: 2 Objection. Mischaracterizes. 3 Assumes facts. 4 A. Not necessarily. We look at it much 5 more broadly than that. The overall 6 relationship to the pricing, average pricing 7 compared to the national flock. 8 MR. BIRKHAEUSER: 9 Q. Do you recall the flock reduction 10 program that the UEP promoted as having had a 11 positive effect on price? 12 MR. ROBISON: 13 Objection. Foundation. Speculation. 14 Vague. 15 A. You know, I'm not sure. There's just 16 so many things that could affect what the price 17 does at any particular time. 18 MR. BIRKHAEUSER: 19 Q. Okay. 20 A. From the time of the year to other 21 costs and influences, too. 22 COURT REPORTER: 23 Conference or costs? 24 A. Costs. 25 MR. BIRKHAEUSER:</p>

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<p style="text-align: right;">Page 54</p> <p>1 Q. Do you recall any conversations with 2 Mr. Baker about the efficacy of the flock 3 reduction program that was -- that he was 4 suggesting to the UEP and the UEP suggested to 5 its members? 6 MR. ROBISON: 7 Object to form. Mischaracterizes. 8 A. What does efficacy mean in this 9 context? 10 MR. BIRKHAEUSER: 11 Q. That the flocks were actually 12 reduced. 13 MR. ROBISON: 14 Same objection. 15 A. No, I don't. Because any UEP program 16 is voluntary. There's no enforcement of it. 17 They make recommendations to their members. 18 Some of them participate and always some of them 19 don't. 20 MR. BIRKHAEUSER: 21 Q. But this particular program, 22 according to United Voices, was successful, 23 correct? 24 MR. ROBISON: 25 Object to form.</p>	<p style="text-align: right;">Page 56</p> <p>1 companies are much worse than average for a 2 whole variety of reasons, but it all just -- did 3 this happen in '99? It may have. I don't 4 recall that. But whenever it goes from a loss 5 to a profitable time, it moves like that. And 6 then after a few months, it'll go back down. 7 That's just the way things have always occurred. 8 We've always produced ourselves out of 9 prosperity. 10 MR. BIRKHAEUSER: 11 Q. And this was an attempt -- the 12 program that Mr. Baker introduced and suggested 13 to the UEP was an attempt to lower production, 14 correct? 15 MR. ROBISON: 16 Objection. Mischaracterizes the 17 previous document. 18 A. I don't know. 19 MR. ROBISON: 20 Foundation. 21 A. You'll just have to ask him. 22 MR. BIRKHAEUSER: 23 Q. It was an attempt to achieve 24 prosperity. 25 MR. ROBISON:</p>
<p style="text-align: right;">Page 55</p> <p>1 A. They're taking some credit. I don't 2 know if it was successful in achieving that or 3 not. 4 MR. BIRKHAEUSER: 5 Q. Did you recall Mr. Baker taking 6 credit? 7 A. No. 8 Q. Do you recall the egg price improving 9 by an average of 10 cents per dozen over the 10 same period of 1999? 11 MR. ROBISON: 12 Same objection. Foundation. Assumes 13 facts. 14 A. You know, I recall typically the 15 price moves up and it moves down. The -- if you 16 look -- I mean, historically, the industry can 17 be profitable for a while and then construction 18 occurs, production increases, and then we go 19 immediately into a loss situation. And we seem 20 to hover in and around, break even as an 21 industry all the time. A little to the plus, a 22 little to the minus. Now, individual companies 23 can be doing much better or much worse. 24 Individual companies always are doing much 25 better; some are much better than average. Some</p>	<p style="text-align: right;">Page 57</p> <p>1 Same objection. Foundation. 2 Mischaracterizes. 3 VIDEOGRAPHER: 4 Ten minutes. 5 MR. BIRKHAEUSER: 6 Q. Let's mark this. 7 (Exhibit 79 marked.) 8 MR. BIRKHAEUSER: 9 For the record, I'm showing the 10 witness Exhibit 79 which is a document bearing 11 the Bates stamps CM00428500. 12 Q. Do you recognize that document, sir? 13 A. Yes. 14 Q. Is that a true copy of a memo that 15 you and others sent on May 13, 1998? 16 A. It appears to be, yes. 17 Q. And you sent that in the regular 18 course of your job duties at Cal-Maine? 19 A. Uh-huh. 20 Q. Do you recall an early slaughter, 21 early molt program in 1998? 22 A. At this point, no. But obviously we 23 were doing that. This is an example, too, of 24 following Easter, an overall adjustment down, 25 which is typical for us, but it refers here to</p>

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<p style="text-align: right;">Page 58</p> <p>1 the support of UEP and USEM as well.</p> <p>2 Q. Okay. We haven't talked about USEM.</p> <p>3 Who is USEM?</p> <p>4 A. U.S. Egg Marketers.</p> <p>5 Q. And what type of organization is</p> <p>6 USEM?</p> <p>7 A. They're a co-op of producers</p> <p>8 predominantly in the southeast originally and</p> <p>9 later it was combined into UEP.</p> <p>10 Q. Okay. Without going through each</p> <p>11 name, who are you writing to in this Cal-A-Gram?</p> <p>12 A. General Managers, our location</p> <p>13 managers.</p> <p>14 Q. Okay. So we haven't talked about</p> <p>15 slaughter as a flock management device, but when</p> <p>16 you say early slaughter, what does that refer</p> <p>17 to?</p> <p>18 MR. ROBISON:</p> <p>19 Object to form.</p> <p>20 A. That means to slaughter sooner than</p> <p>21 the normal planned time frame.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. And the effect of that would be to</p> <p>24 lower production, correct?</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 60</p> <p>1 of decreasing the production, correct?</p> <p>2 MR. ROBISON:</p> <p>3 Objection. Foundation. Vague.</p> <p>4 A. It would end up moving the production</p> <p>5 from one time to another.</p> <p>6 MR. BIRKHAEUSER:</p> <p>7 Q. At the time you molt, you are going</p> <p>8 to be decreasing the production; is that</p> <p>9 correct?</p> <p>10 MR. ROBISON:</p> <p>11 Objection. Foundation. Vague.</p> <p>12 A. The birds that you molt go out of</p> <p>13 production for like a couple of weeks or so</p> <p>14 until they resume production a little bit later.</p> <p>15 Now, as you move that period from one point on</p> <p>16 the calendar to another, you can shift that</p> <p>17 around. It doesn't really affect the number of</p> <p>18 eggs you get. It just affects a little bit the</p> <p>19 timing of those.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. And we're talking here about inducing</p> <p>22 molt, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall keeping track in any</p> <p>25 way of the managers' compliance with your</p>
<p style="text-align: right;">Page 59</p> <p>1 Objection. Mischaracterizes.</p> <p>2 Foundation.</p> <p>3 A. Yes. It would be designed to empty</p> <p>4 cages in a house.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. And thus lower egg production.</p> <p>7 MR. ROBISON:</p> <p>8 Same objections.</p> <p>9 A. Might lower egg production. It</p> <p>10 depends on -- it would lower production in that</p> <p>11 house. I don't know if it would for Cal-Maine</p> <p>12 overall, but that's what it would do.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. What's the normal slaughter time or</p> <p>15 what was the normal slaughter time in 1998?</p> <p>16 A. I think it was 108.</p> <p>17 Q. So if it was 108, this memo would be</p> <p>18 asking the managers to slaughter three weeks</p> <p>19 early.</p> <p>20 A. Yeah.</p> <p>21 Q. And when you say "molt all flocks</p> <p>22 back," what do you mean by that?</p> <p>23 A. Sooner. Just shift the molt time to</p> <p>24 a sooner point.</p> <p>25 Q. And that would also have the effect</p>	<p style="text-align: right;">Page 61</p> <p>1 request?</p> <p>2 A. No, but it's routine that we either</p> <p>3 comply or we're aware of it.</p> <p>4 Q. How do you become aware of that?</p> <p>5 A. We see reports at least weekly.</p> <p>6 Q. About the flock?</p> <p>7 A. Oh, yeah.</p> <p>8 Q. Okay.</p> <p>9 VIDEOGRAPHER:</p> <p>10 Four minutes.</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 All right. Why don't we break here</p> <p>13 and let them exchange the tape.</p> <p>14 VIDEOGRAPHER:</p> <p>15 This is the end of tape number one in</p> <p>16 the video deposition of Steve Storm. We are</p> <p>17 going off the record. The time is 10:51 a.m.</p> <p>18 (A recess was taken.)</p> <p>19 VIDEOGRAPHER:</p> <p>20 This is the beginning of tape number</p> <p>21 two in the video deposition of Steve Storm. We</p> <p>22 are now going back on the record. The time is</p> <p>23 11:04 a.m.</p> <p>24 MR. BIRKHAEUSER:</p> <p>25 Q. Did Mr. Baker communicate with you</p>

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<p style="text-align: right;">Page 62</p> <p>1 about the results of marketing committee 2 decisions after they were made? 3 MR. ROBISON: 4 Object to form. Vague. 5 A. If I understand that, from time to 6 time. By that, do you mean would he say that 7 this was the action of the marketing committee? 8 MR. BIRKHAEUSER: 9 Q. Yes. 10 A. It wouldn't be unusual for him to do 11 that, no. 12 Q. Okay. And would you communicate with 13 Mr. Baker about the results of the animal 14 welfare committee meetings that you attended? 15 A. Well, not necessarily because the 16 animal welfare committee, any actions the 17 committee takes are in the form of a motion to 18 the full board, so as a board member, he would 19 be aware of those things. 20 Q. Was Mr. Baker a board member the 21 entire time you were on the animal welfare 22 committee? 23 MR. ROBISON: 24 Object to the form. 25 A. Most likely. If not all the time,</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I would be surprised if we did not. 2 I would say we did do that. 3 Q. Because it was Mr. Baker's -- 4 A. His committee and Cal-Maine's a big 5 supporter of UEP. We normally would participate 6 in programs. 7 Q. Okay. Do you recall how you carried 8 that into effect? 9 A. No. 10 MR. BIRKHAEUSER: 11 The next document I'm going to show 12 the witness is a document entitled -- or bearing 13 the Bates number CM00227113 through 121. And it 14 has a date of 2-26-02. 15 (Exhibit 81 marked.) 16 Q. And I'm just going to ask you to 17 review it generally and I'll just ask you some 18 specific questions after you've reviewed it. 19 A. '02. 20 Q. First of all, can I have you turn to 21 the page that ends in 114? It's the second page 22 of the document. 23 A. Yes. 24 Q. And at the lower left-hand side you 25 see the initials RKL. Is that Mr. Looper?</p>
<p style="text-align: right;">Page 63</p> <p>1 just about. 2 MR. BIRKHAEUSER: 3 Q. Did you review the minutes of the 4 marketing committee meetings that you did not 5 attend? 6 MR. ROBISON: 7 Object to form. Mischaracterizes. 8 A. None. 9 MR. BIRKHAEUSER: 10 I'm going to mark as Exhibit 80 a 11 document bearing the Bates stamp UE0153205. 12 It's a one-page document. And the document's 13 entitled: "UEP Marketing Committee, May 16, 14 2000, Washington, D.C." 15 (Exhibit 80 marked.) 16 Q. Have you had a chance to review 17 Exhibit 80? 18 A. Yes. 19 Q. Do you recall in the year 2000 that 20 the 5 percent flock reduction program would be 21 continued until the end of the year? 22 A. No, I did not recall that, but 23 apparently it did. 24 Q. Do you recall carrying that into 25 effect at Cal-Maine?</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Yes. 2 Q. Okay. And generally this document 3 appears to discuss hatch, correct? 4 MR. ROBISON: 5 Object to form. 6 A. I haven't been all the way through it 7 yet, but, yeah. 8 MR. BIRKHAEUSER: 9 Q. Okay. Why don't you take your time 10 to just read the first two pages. 11 A. Okay. Yes, sir. 12 Q. And this subject matter of hatch was 13 something that was of concern to Mr. Looper, 14 correct? 15 MR. ROBISON: 16 Object to form. Foundation. 17 Speculation. 18 A. Yes. 19 MR. BIRKHAEUSER: 20 Q. It was something that was in his 21 purview to follow at Cal-Maine, correct? 22 A. I think so. 23 Q. Okay. And he also tracked something 24 called disappearance, correct? 25 A. Uh-huh.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q. And what is disappearance?</p> <p>2 A. In this, he's speaking on a national</p> <p>3 level. Certain number of -- you would like to</p> <p>4 just say slaughter the ones that are carried out</p> <p>5 of the flock, but there's so many other things</p> <p>6 that can happen to cause disappearance that it's</p> <p>7 just a -- it's sort of a calculated number.</p> <p>8 USDA provides inventories, and, you know, the</p> <p>9 hatch so the only thing left is disappearance</p> <p>10 and you can back into a number.</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 Q. So disappearance would include</p> <p>13 slaughter, correct?</p> <p>14 A. Yes.</p> <p>15 Q. But it would also include the natural</p> <p>16 mortality of hens.</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. Or the unnatural mortality.</p> <p>20 Q. Okay.</p> <p>21 A. Well, things happen, like a</p> <p>22 thunderstorm knocks the power out somewhere and</p> <p>23 suffocates a house of chickens or there's a fire</p> <p>24 somewhere and burns up some. Just every year</p> <p>25 there are incidents across the nation.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. Okay. On the page that ends in 118,</p> <p>2 I believe it's the 6th page of the document.</p> <p>3 It's entitled "Hatch Report." See this?</p> <p>4 A. Yes.</p> <p>5 Q. And you are listed as receiving a</p> <p>6 copy of this in the distribution list at the</p> <p>7 top.</p> <p>8 A. Yes, sir.</p> <p>9 Q. And is this a Hatch Report that we</p> <p>10 referred to earlier?</p> <p>11 A. It's a monthly report.</p> <p>12 Q. And this is produced by whom?</p> <p>13 A. USDA.</p> <p>14 Q. And --</p> <p>15 A. The last one came out Tuesday of this</p> <p>16 week.</p> <p>17 Q. Okay. Come out every Tuesday?</p> <p>18 A. No. Comes out once a month.</p> <p>19 Q. Okay. I'm sorry. And how did you</p> <p>20 use the Hatch Report in your day-to-day</p> <p>21 responsibilities at Cal-Maine?</p> <p>22 A. Directly not at all, but it just lets</p> <p>23 you see they way the trends were.</p> <p>24 Q. Would you -- did Mr. Looper inform</p> <p>25 you and other employees at Cal-Maine about the</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. So it includes mortality plus</p> <p>2 slaughter. Okay. And Mr. Looper tracked hatch</p> <p>3 and mortality in order to figure out and make</p> <p>4 estimates of production, correct, egg production</p> <p>5 nationwide?</p> <p>6 MR. ROBISON:</p> <p>7 Object to form.</p> <p>8 A. Well, I don't know exactly why he did</p> <p>9 it, but I think I know his motivation.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. What was his motivation?</p> <p>12 A. To know when to make acquisitions so</p> <p>13 if you could figure out when things are going to</p> <p>14 turn around because of -- by studying the</p> <p>15 history, the numbers, well, then maybe you could</p> <p>16 acquire at a time that would be -- when it would</p> <p>17 be profitable to own those birds but not</p> <p>18 necessarily unprofitable.</p> <p>19 Q. He was also concerned with egg price,</p> <p>20 correct?</p> <p>21 MR. ROBISON:</p> <p>22 Objection. Form. Foundation.</p> <p>23 Speculation.</p> <p>24 A. I really don't know, but --</p> <p>25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 69</p> <p>1 effect of the Hatch Report on Cal-Maine's</p> <p>2 business?</p> <p>3 MR. ROBISON:</p> <p>4 Object to form. Assumes facts.</p> <p>5 A. Not specifically. I think he would</p> <p>6 be -- he was taking that information and other</p> <p>7 information as provided by USDA to calculate his</p> <p>8 interpretation of how that was going to affect</p> <p>9 the overall flock.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. And in turn, Cal-Maine's flock.</p> <p>12 MR. ROBISON:</p> <p>13 Objection. Same objections.</p> <p>14 A. No, the overall flock determines</p> <p>15 price.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 Q. It determines the price for eggs</p> <p>18 generally?</p> <p>19 A. Uh-huh.</p> <p>20 MR. ROBISON:</p> <p>21 Objection. No foundation.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 I'm sorry?</p> <p>24 MR. ROBISON:</p> <p>25 Same objection. No foundation.</p>

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<p style="text-align: right;">Page 70</p> <p>1 MR. BIRKHAUSER:</p> <p>2 Q. But in any event, you didn't use the</p> <p>3 Hatch Report as part of your day-to-day</p> <p>4 responsibility.</p> <p>5 A. No. My job was to try to do well</p> <p>6 with what we had. The assigned facilities that</p> <p>7 I was working with, for them to perform at high</p> <p>8 levels and be a contributor to the benefit of</p> <p>9 Cal-Maine. As far as things regarding planning</p> <p>10 and forecasting and -- that was done by Mr.</p> <p>11 Looper, Mr. Baker, Mr. Adams and others. We</p> <p>12 were aware of some of that from time to time,</p> <p>13 but my job was to -- the everyday stuff.</p> <p>14 Q. Okay. Again, I just have to ask you</p> <p>15 to wait until I finish my question before you</p> <p>16 answer just so we have a complete record. So</p> <p>17 let me just repeat it quickly. You did not use</p> <p>18 the Hatch Report as part of your day-to-day</p> <p>19 responsibilities at Cal-Maine. Correct?</p> <p>20 A. Correct.</p> <p>21 Q. Thanks.</p> <p>22 MR. BIRKHAUSER:</p> <p>23 Do you think this one was marked as</p> <p>24 an exhibit before; is that right? Or not?</p> <p>25 Let's just mark it again.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. It's a report.</p> <p>2 Q. And what does the report show?</p> <p>3 A. It shows for each week what the</p> <p>4 slaughter and mortality is, what the</p> <p>5 replacements are, and what the ending number of</p> <p>6 birds are in total for the company.</p> <p>7 Q. And this would include all Cal-Maine</p> <p>8 locations?</p> <p>9 A. I believe so.</p> <p>10 Q. And who prepares Exhibit 82?</p> <p>11 A. A clerk in our office.</p> <p>12 Q. And does she receive data from each</p> <p>13 of Cal-Maine's regions? How does it work?</p> <p>14 A. You could say that. There's</p> <p>15 assembled flock information that show where she</p> <p>16 picks up these numbers. It's done every week.</p> <p>17 Q. Okay. And to the best of your</p> <p>18 knowledge, is the information in Exhibit 82</p> <p>19 correct?</p> <p>20 A. Probably. I don't know.</p> <p>21 Q. Do you rely on it?</p> <p>22 A. Not at all.</p> <p>23 Q. It's not part of your day-to-day</p> <p>24 operations?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 71</p> <p>1 (Exhibit 82 marked.)</p> <p>2 Q. So, again, for the record, we're</p> <p>3 marking as Exhibit 82 a document bearing Bates</p> <p>4 number CM00266889.</p> <p>5 MR. ROBISON:</p> <p>6 And the last Bates number's ending in</p> <p>7 964.</p> <p>8 MR. BIRKHAUSER:</p> <p>9 Thank you.</p> <p>10 Q. I notice there's a distribution list</p> <p>11 at the top of this document and you are listed</p> <p>12 as one of the recipients. Do you recall</p> <p>13 receiving Exhibit 82?</p> <p>14 MR. ROBISON:</p> <p>15 Object to form.</p> <p>16 A. Yes.</p> <p>17 MR. BIRKHAUSER:</p> <p>18 Q. And you received it as part of your</p> <p>19 day-to-day activities at Cal-Maine?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form.</p> <p>22 A. I received this in a packet for our</p> <p>23 Monday morning meetings. Comes every week.</p> <p>24 MR. BIRKHAUSER:</p> <p>25 Q. And what is it?</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. And why is it used for the Monday</p> <p>2 morning meetings?</p> <p>3 A. It's not. It's just included. It</p> <p>4 once might have been. I see here that, for</p> <p>5 example, it shows week number 1062 on this top</p> <p>6 page for March 29, '03, well, probably week one</p> <p>7 was 1,061 weeks earlier than this.</p> <p>8 Q. Okay.</p> <p>9 A. It was probably pertinent then. And</p> <p>10 some sort of a flock reduction, that's the</p> <p>11 title, but since then it's just a summary. You</p> <p>12 can look very quickly and see how many birds we</p> <p>13 put in our flock, what's the total, how many you</p> <p>14 lost that week for total disappearance.</p> <p>15 Q. Okay. And the total number of birds</p> <p>16 ending at the end of the week.</p> <p>17 A. Right. I really don't know why we</p> <p>18 continue it, but it's not my decision so it</p> <p>19 comes out.</p> <p>20 Q. Does it come out today?</p> <p>21 A. Comes out for every Monday morning.</p> <p>22 Q. And it has for how long?</p> <p>23 A. I don't know. I presume it's 1,062</p> <p>24 weeks ahead of March 29, '03.</p> <p>25 Q. So you believe that these weeks were</p>

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<p style="text-align: right;">Page 74</p> <p>1 numbered from the beginning of the program until 2 -- 3 A. Yes. That's what I believe. 4 Q. Okay. If you look at the very last 5 page, which is 964. 6 A. Yes, sir. 7 Q. We have dates. I think the earliest 8 is November 3rd of 2001; is that correct? 9 A. Yes. 10 Q. And then the latest date that I can 11 see on page 1 is July 12, 2003; is that correct? 12 A. July 29 of '03, yes, sir. Pardon me. 13 On page 1, March 29 down to July 12, yes, I'm 14 with you now. 15 Q. Okay. Thank you. Just so I 16 understand, let's look at week two here. 17 A. Which would be what? 18 MR. ROBISON: 19 Object to form. 20 MR. BIRKHAEUSER: 21 Q. So let's look at week 1063. 22 A. Yes, sir. 23 Q. April 5, 2003. We've got 29 -- 24 249,650 birds that were slaughtered or 25 disappeared?</p>	<p style="text-align: right;">Page 76</p> <p>1 MR. ROBISON: 2 Object to form. 3 A. Probably not. 4 MR. BIRKHAEUSER: 5 Q. Why not? 6 A. I would probably look at the same 7 source that they came from. 8 Q. And what source did they come from? 9 A. Just other documents. I mean, this 10 is just somebody else taking the number and 11 putting it down. There's potential error. So 12 if I was investigating, I would try to get 13 closer to the source information than this. 14 Q. And what would be closer to the 15 source information than Exhibit 82? 16 A. There's another report that's 17 assembled for the week that accumulates all of 18 our locations, so I would probably go back to 19 those reports. 20 Q. And what is that report called? 21 A. I think it's called the Weekly 22 Situation Report or something. It's just a 23 summary of production information. 24 Q. And who prepares that report? 25 A. Someone in accounting. I don't know</p>
<p style="text-align: right;">Page 75</p> <p>1 MR. ROBISON: 2 Object to form. 3 MR. BIRKHAEUSER: 4 Q. Is that correct? 5 MR. ROBISON: 6 Same. 7 A. Yes. 8 MR. BIRKHAEUSER: 9 Q. And they were replaced by 316,289 10 birds? 11 A. Yes. 12 Q. So you end the week at 20,822 -- 13 20,822,254 birds. 14 A. Yes, sir. 15 Q. And then you can compare that with 16 the prior week and see whether you have either 17 more birds or less birds at the end of the week; 18 is that correct? 19 A. Yes. 20 Q. If you ever needed to find out 21 whether -- what Cal-Maine's -- strike that. If 22 you needed to investigate the number of birds 23 that Cal-Maine had at the end of a given week, 24 would you consult Exhibit 82 during this time 25 period?</p>	<p style="text-align: right;">Page 77</p> <p>1 who. It changes. 2 Q. If you need that report, who do you 3 ask? 4 A. I ask my assistant to go find it 5 somewhere in the building; somebody does it. 6 Q. And what do you call it? 7 A. The Weekly Situation Report. But 8 this is a summary of totals over many weeks. I 9 would probably investigate it differently if I 10 were looking for a week or two is my point. 11 Q. Okay. But if you wanted a general 12 picture of the situation over the time period 13 indicated in -- 14 A. This is probably true. 15 Q. Okay. Thank you. 16 (Exhibit 83 marked.) 17 Q. We are marking as Exhibit 83 a 18 document bearing the Bates stamp CM00266782 19 through 888. I see that you're noted on the 20 distribution at the top. Is this a document 21 that you actually received? 22 MR. ROBISON: 23 Object to form. 24 A. I think so. It's the same document. 25 MR. BIRKHAEUSER:</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q. Okay. And this document purports to</p> <p>2 list ending bird figures for the time period</p> <p>3 April 30th -- I'm sorry, April 5th, '03 through</p> <p>4 April 30th, '05; is that correct?</p> <p>5 A. Apparently so. That's what it</p> <p>6 appears to be.</p> <p>7 MR. ROBISON:</p> <p>8 Bottom of the first page goes down to</p> <p>9 August of '05. I don't know what you're trying</p> <p>10 to do. I'm just pointing that out.</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 Thank you. You're right.</p> <p>13 Q. So it would be April 3rd, '03,</p> <p>14 through August 13, '05; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And do you believe that this</p> <p>17 represents the report that you received again</p> <p>18 for the Monday morning meetings?</p> <p>19 A. Yes, sir.</p> <p>20 MR. ROBISON:</p> <p>21 Object to form.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. And to the best of your knowledge,</p> <p>24 this contains accurate information?</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 80</p> <p>1 week on Monday morning.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. Okey-doke. And so this appears to</p> <p>4 cover the time period August 20, '05 through</p> <p>5 September 15, '07?</p> <p>6 A. It appears so, yes.</p> <p>7 Q. And to the best of your knowledge,</p> <p>8 the information contained in Exhibit 84 is</p> <p>9 accurate; is that correct?</p> <p>10 MR. ROBISON:</p> <p>11 Object to form.</p> <p>12 A. I have no immediate reason to doubt</p> <p>13 it.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. It was presented as being accurate.</p> <p>16 A. Uh-huh.</p> <p>17 Q. I would like to talk a little bit</p> <p>18 about the animal welfare committee, and we'll</p> <p>19 discuss the animal welfare committee a little</p> <p>20 bit more later on, but I want to just get some</p> <p>21 general information first.</p> <p>22 MR. GREEN:</p> <p>23 This is William Green on the phone.</p> <p>24 Again, the questioning counsel is getting faint</p> <p>25 again. If you could do whatever you did before</p>
<p style="text-align: right;">Page 79</p> <p>1 Object to form.</p> <p>2 A. You know, I don't rely on it so I</p> <p>3 don't check them, but I think probably it's</p> <p>4 right.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. It's prepared for --</p> <p>7 A. Yes. It's presented as such.</p> <p>8 Q. It's presented as accurate.</p> <p>9 MR. BIRKHAEUSER:</p> <p>10 (Exhibit 84 marked.)</p> <p>11 Q. The next document, for the record, is</p> <p>12 a similar exhibit, Record of flock reduction</p> <p>13 program, bearing the Bates numbers CM00266664</p> <p>14 through 781. Did you receive a copy of Exhibit</p> <p>15 84?</p> <p>16 A. I'm sure.</p> <p>17 MR. ROBISON:</p> <p>18 Object to form.</p> <p>19 A. I feel like I did, yes.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. And you received Exhibit 84 for your</p> <p>22 Monday morning meetings?</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. I would typically receive this once a</p>	<p style="text-align: right;">Page 81</p> <p>1 to make it a little louder, it would be much</p> <p>2 appreciated.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 All right. Sorry about that. I'm</p> <p>5 navigating electrical cords here.</p> <p>6 Q. When you joined the animal welfare</p> <p>7 committee of the UEP, when was that again?</p> <p>8 A. At its inception, and I think it was</p> <p>9 approximately 1999.</p> <p>10 Q. Okay. What was the first matter of</p> <p>11 concern for the animal welfare committee?</p> <p>12 MR. ROBISON:</p> <p>13 Object to form.</p> <p>14 A. To receive the information as</p> <p>15 provided by the scientific committee, and from</p> <p>16 that our charge was to produce an Animal Welfare</p> <p>17 Program for the membership.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. When you joined, how many members</p> <p>20 were there?</p> <p>21 MR. ROBISON:</p> <p>22 Object to form. Vague.</p> <p>23 A. I don't recall exactly, but there's</p> <p>24 probably a dozen.</p> <p>25 MR. BIRKHAEUSER:</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. And you did join it at its inception, 2 correct? 3 MR. ROBISON: 4 Form. 5 A. Yes. 6 MR. BIRKHAEUSER: 7 Q. Mark this as 85. 8 (Exhibit 85 marked.) 9 Q. For the record, we have marked as 10 Exhibit 85 a document bearing the Bates number 11 UE153203 through 204. I'll ask you if you can 12 review the minutes. 13 A. Okay. 14 Q. Do you recall attending the meeting 15 of the animal welfare committee on May 15 of 16 2000 in Washington, D.C.? 17 A. Yes. 18 Q. Do these appear to be a true copies 19 of the minutes of that meeting? 20 MR. ROBISON: 21 Object to form. 22 A. It is. 23 MR. BIRKHAEUSER: 24 Q. Did you retain the minutes of the 25 meeting?</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes. 2 Q. Okay. What were the main categories 3 of the guidelines? 4 MR. ROBISON: 5 Object to form. 6 A. I don't know that we -- I don't -- I 7 guess we had categories. I don't think about it 8 that way. But there were -- cage space for the 9 birds was an important category, bird handling 10 in all ways, whether through transportation or 11 at any point. Providing fresh feed and water 12 and all that sort of stuff. Having a way to 13 document that you're doing that to -- they were 14 concerned about other certain practices, such as 15 forced molting, beak trimming. That's all that 16 comes to mind for the moment. 17 MR. BIRKHAEUSER: 18 Q. With respect to beak trimming, what 19 is beak trimming? 20 A. It's mechanically trimming the beak 21 of the chickens. 22 Q. And why is that done? 23 A. The nature of chickens is to be very 24 cannibalistic and that beak is a weapon. They 25 eat each other up. Kill each other.</p>
<p style="text-align: right;">Page 83</p> <p>1 A. No. 2 Q. Who did? 3 A. The UEP kept copies of them. 4 Q. Would they be sent to the members? 5 A. They were sent out to members. 6 Q. You just didn't keep a copy yourself. 7 A. No. 8 Q. Okay. The minutes suggest that the 9 committee reviewed a draft of the "Humane 10 Guidelines for U.S. Egg Laying Flocks." Who 11 prepared the Humane Guidelines? 12 A. I believe that's the title of the 13 document prepared by the scientific committee. 14 Q. And the scientific committee was in 15 existence before the animal welfare committee -- 16 A. Yes. 17 Q. -- began its work? 18 A. Correct. 19 Q. So is it fair to say that the Humane 20 Guidelines were the genesis for the ultimate 21 Animal Welfare Guidelines that were promulgated 22 by the UEP? 23 A. What do you mean the genesis? Is 24 that a legal term? 25 Q. The beginning.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. And the guidelines were preparing 2 rules relating to the humane trimming of beaks; 3 is that correct? 4 A. Yes. 5 Q. And molting. Why were the guidelines 6 concerned with molting? 7 MR. ROBISON: 8 Object to form. 9 A. They just -- molting occurs naturally 10 on a one-by-one basis, and to accomplish it on a 11 flock basis, it has to be induced in some 12 manner, and the degree to which you do that is 13 -- how you do that and to the extent you extend 14 the molt period, it can be done differently, so 15 it addressed some of those things, the things 16 you do during a molt. 17 MR. BIRKHAEUSER: 18 Q. What are some of the things that you 19 do during a molt? 20 MR. ROBISON: 21 Object to form. 22 A. At that time it was customary that to 23 initiate a molt that you withdraw feed in order 24 to get the bird out of production. And you wait 25 until there's been a sufficient time for weight</p>

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<p style="text-align: right;">Page 86</p> <p>1 loss, which initially the weight loss means no 2 production of eggs. Then there's -- the bird is 3 on a diet. They lose body condition, and at the 4 right time you begin to feed them again, they 5 rejuvenate and go back into production again as 6 part of a cycle of lay. 7 MR. BIRKHAUSER: 8 Q. And then generally you mentioned cage 9 space allowance, and what did that concern? 10 A. The committee felt like that the 11 birds were generally kept in too tight a 12 quarters, that they should have more space. 13 Q. And the committee was considering 14 requiring fewer birds per cage; is that correct? 15 MR. ROBISON: 16 Object to form. Mischaracterizes. 17 Vague. 18 A. No. They were talking about how much 19 space per bird, which I guess if you made a 20 change within an existing cage, it could be like 21 you said. 22 MR. BIRKHAUSER: 23 Q. It would end up reducing the -- 24 A. They just wanted chickens to have 25 more room.</p>	<p style="text-align: right;">Page 88</p> <p>1 would work today and could be acceptable to the 2 membership. 3 Q. And you -- it was your job to 4 evaluate the work of the scientific committee 5 and then make recommendations to the full board; 6 is that correct? 7 A. I don't know if "evaluate" is the 8 right word. We took their information. We took 9 their -- everything they suggested, and we tried 10 to put that into a program that says here's -- 11 interpreting that somewhat as to how you do it. 12 Now, the committee from the start said here's 13 what we -- here are all the recommendations. We 14 don't -- we don't have a timeline. We don't 15 demand that anything happen on a certain 16 timeline, but there are certain things that you 17 need to do. This cage space is an important 18 one. And they had a few others that were, and 19 we put it in our program and presented it to the 20 board. 21 Q. Did you have a particular role with 22 respect to the guidelines? 23 A. I think we were -- it was a committee 24 action. We were all involved and discussed all 25 the aspects.</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. It would end up -- 2 A. They were also concerned about feeder 3 space, water space, cage height. Just 4 environmental things directly concerning the 5 chicken. 6 Q. In any event, there was a motion to 7 accept the recommendations and goals of the 8 scientific committee with the implementation 9 plans of phasing in the cage space allowance to 10 be presented for approval at the October board 11 meeting; is that correct? 12 A. I know we accepted their work. The 13 work of the scientific committee, they were -- 14 that was an independent group. The chairman was 15 selected by UEP, and he selected his committee. 16 Most of his committee members were aware of 17 animal husbandry and as it pertains to welfare, 18 but maybe not in all phases of the husbandry, so 19 they researched the literature for -- they 20 considered pertinent for over 25 or 30 years, 21 and from that, after their discussions, gleaned 22 that down into recommendations on here's a 23 scientific way to raise chickens based on the 24 history. And our job as a committee was to take 25 that information and put it into a program that</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. Did you have -- did the committee 2 have a chairman? 3 A. Yes. 4 Q. Who was the chairman? 5 A. Barrie Wilcox was initially. 6 Q. And then who replaced Mr. Wilcox? 7 A. I think Paul Bahan was next, if I 8 remember right. And Bob Krouse was after that. 9 And Mark Oldenkamp has been the chairman for 10 some several years now. Those are the four. 11 Q. There is -- on page 2 of this 12 document there is reference to subcommittees, 13 for a mandatory program, a voluntary program, 14 and an implementation timeline. Do you see 15 that? 16 A. I do see it. 17 Q. And then it says: "It should be 18 noted that the board of directors took a 19 position in opposition to any legislative 20 efforts to create a mandatory program." 21 A. Right. 22 Q. Do you recall that controversy? 23 MR. ROBISON: 24 Object to form. 25 A. I recall that the membership was</p>

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<p style="text-align: right;">Page 90</p> <p>1 opposed to government intervention to do a 2 mandatory program, yes. 3 MR. BIRKHAUSER: 4 Q. And why was a mandatory program 5 suggested? 6 MR. ROBISON: 7 Object to form. Foundation. 8 A. You know, I'm trying to think at 9 exactly what point in the sequence this is, but 10 I think the reason it was brought up for 11 consideration is that this program was not 12 without cost. This would be a -- to implement 13 the Animal Welfare Program as it was presented 14 at that time was going to add cost to the 15 production of eggs for those producers. And so 16 living in a world of a lot of competition and 17 close margins and profits and losses varying 18 from year-to-year, then it just -- the thought 19 was that it would -- if it were voluntary, it 20 would not -- could not be accepted. If it were 21 implemented across the board, it would be a 22 level playing field and there would be more cost 23 but it would be for everybody and there would be 24 no gain for those -- for one party or another. 25 So I think that might have been the reason that</p>	<p style="text-align: right;">Page 92</p> <p>1 knowing because we had not implemented it, but 2 estimating the cost of the implementation of the 3 program, it would increase our cost by more than 4 normal profits, which would mean due to the 5 competitive nature of our business, anybody that 6 entered this program without getting a price 7 increase from their customers to offset the 8 costs would then put themselves in uncompetitive 9 position and eventually it would put them out of 10 business, so we did complete the program as a 11 voluntary program and nobody did it because old 12 customers were stepping up to say that we would 13 like you to do that and here's the money to 14 cover your costs. 15 Q. Are you saying that no one complied 16 with the guidelines when they were -- 17 A. No one adopted these guidelines. It 18 was a voluntary program. At least this was a 19 program for us to use as an Animal Welfare 20 Program, and it was ready to go but we just 21 could not initiate it because of the financial 22 circumstances involved. 23 Q. Okay. 24 A. And maybe you should bear in mind 25 that the whole idea of an animal welfare</p>
<p style="text-align: right;">Page 91</p> <p>1 it came up for a mandatory program. 2 MR. BIRKHAUSER: 3 Q. Did you recall the board of directors 4 -- I'm sorry, did you attend the board of 5 directors meetings where this issue was 6 discussed? 7 A. I can't say that I did. 8 Q. You don't recall either way? 9 A. I might have been at one or two, but 10 I'm not positive. The chairman of the committee 11 carried the motions from the committee to the 12 board. 13 Q. And the chairman at any given time 14 would attend the board of directors -- 15 A. Absolutely. 16 Q. -- the board of directors meetings. 17 Okay. And during this time that was Mr. Wilcox. 18 A. Yes. 19 Q. Do you recall who favored the 20 mandatory program? 21 A. No, I don't. 22 Q. Did you have an opinion? 23 A. Yes. 24 Q. What was your opinion? 25 A. My opinion was that without really</p>	<p style="text-align: right;">Page 93</p> <p>1 scientific committee and everything else came 2 from a European experience where politics 3 dictated the changes from causing the industry 4 to go to zero cages and the thought was that 5 instead of having emotion determine the downfall 6 of our industry, we should solicit science, 7 establish science and get the scientific backing 8 of how it should be done and that should protect 9 us to allow us to continue in some semblance of 10 the way we do business now. And that's -- so 11 the scientific committee reviewed the science 12 and presented their recommendations. We used 13 those recommendations and came up with a 14 program. Doesn't address everything. At later 15 times we came back and addressed things -- other 16 points as they -- at their urging, in some 17 cases, the scientific committee. But it was an 18 effort to keep the industry in cages. But at 19 the point in time that the document was finished 20 there was -- I mean, there was no way you could 21 just say I'm going to give away into cost 22 another seven or eight cents a dozen because 23 nobody made that much money. 24 Q. Do you recall when the guidelines 25 were approved by the board?</p>

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<p style="text-align: right;">Page 94</p> <p>1 MR. ROBISON: 2 Object to form. Vague. 3 A. I know it's in all these documents 4 here somewhere, but about -- they came out about 5 2000. 6 MR. BIRKHAEUSER: 7 Q. And Cal-Maine agreed to comply with 8 the guidelines, correct? 9 MR. ROBISON: 10 Object to form. Vague. 11 A. No. I think as a board member I 12 think, you know, the entire board approved the 13 program to be used as a voluntary program. Each 14 member would decide if they used it or not in 15 their operation. 16 MR. BIRKHAEUSER: 17 Q. When you say "the board," are you -- 18 A. The UEP board. 19 Q. The UEP board. I'm referring to 20 Cal-Maine. 21 A. Oh, I'm sorry. I misunderstood your 22 question. 23 Q. Okay. Cal-Maine agreed to comply 24 with the guidelines; is that correct? 25 MR. ROBISON:</p>	<p style="text-align: right;">Page 96</p> <p>1 deemed that this would be acceptable. 2 Then about that time Walmart put in 3 their specifications, says if you're going to 4 sell us eggs, you've got to do it. Well, that's 5 like mandatory at that point because if Walmart 6 does that, then all of their competitors are 7 going to have to do that. They can't give them 8 that competitive edge, so to speak. And so this 9 appeared to solve the problems for the retailers 10 and that these folks giving them bad press went 11 away and the -- then we had the program ready to 12 go. The only -- there was a major change, and 13 that was FMI was not satisfied with our phase-in 14 program for cage space. They insisted we -- 15 that we reduce the length of time it took to get 16 the required cage space, so we had to move from 17 where we were to the -- to the greatest number 18 quicker than our desire which would tend to 19 hasten that process. The longer time that you 20 have to do it, the more time you have for people 21 to build to replace the reduced -- the reduction 22 caused by the implementation of the program. 23 And so at FMI's direction, we had to reduce that 24 to a shorter period of time, and -- but we set 25 up a program and did it.</p>
<p style="text-align: right;">Page 95</p> <p>1 Object to form. Vague. 2 A. At that time, no, we did not 3 implement the guidelines at that time. 4 MR. BIRKHAEUSER: 5 Q. Okay. When did Cal-Maine implement 6 the guidelines? 7 A. We implemented the guidelines after 8 the animal welfare people got after the grocery 9 -- our customers. When they started picketing 10 Safeway and Kroger and -- about animal welfare 11 items, the grocery people then wanted to -- 12 about that time in the interim McDonald's had 13 come up with a program which was different than 14 UEP's. They had their own scientific basis, and 15 they came up with a program for McDonald's. 16 The -- as my understanding was, the 17 grocery folks saw that it's going to be hard to 18 do, everybody get their own program, so they 19 suggested some way to come up with an 20 industry-wide program and I think delegated that 21 to their association, FMI, Food Manufacturer's 22 Institute. They began to communicate with UEP 23 and to work together and they saw that we had a 24 program; no other species did. They looked at 25 it, accepted it, and said this is -- and it was</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. There was a lot to that answer, but 2 the initial question was: When did Cal-Maine 3 implement the guidelines? 4 A. When we got -- when Walmart put it in 5 their specifications. 6 Q. Do you know when that was? 7 A. Approximately 2002, I think. I'm not 8 sure of that date exactly. I've seen that date 9 recently, but I don't recall it at the moment. 10 Q. Okay. Well, we'll look at some 11 documents in a minute or later on this afternoon 12 that will tell us. 13 MR. BIRKHAEUSER: 14 Why don't we go off the record for a 15 minute. 16 VIDEOGRAPHER: 17 We are now going off the record. The 18 time is 12:04 p.m. 19 (A recess was taken.) 20 VIDEOGRAPHER: 21 We are now going back on the record. 22 The time is 1:07 p.m. 23 MR. BIRKHAEUSER: 24 Q. Right before our lunch break you 25 referred to Walmart in your answer. Did you</p>

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<p style="text-align: right;">Page 98</p> <p>1 have responsibility for sales?</p> <p>2 A. No.</p> <p>3 Q. Did you meet with Cal-Maine's</p> <p>4 customers?</p> <p>5 MR. ROBISON:</p> <p>6 Object to form.</p> <p>7 MR. BIRKHAUSER:</p> <p>8 A. No.</p> <p>9 MR. BIRKHAUSER:</p> <p>10 Q. Did you ever meet with Walmart?</p> <p>11 A. I have met with a Walmart</p> <p>12 representative or two over the last 15 years</p> <p>13 once or twice, but just in conjunction with</p> <p>14 another salesperson, a different salesperson.</p> <p>15 Q. And when did you meet with Walmart?</p> <p>16 A. What period of time are you</p> <p>17 interested in?</p> <p>18 Q. You said -- I thought you said you</p> <p>19 met with them once or twice, so --</p> <p>20 A. Oh, I have. Most recently I met with</p> <p>21 them when they were concerned about options for</p> <p>22 supplying their California markets coming up</p> <p>23 starting next January.</p> <p>24 Q. When was the first time you met with</p> <p>25 them?</p>	<p style="text-align: right;">Page 100</p> <p>1 program.</p> <p>2 Q. Okay. But then there would also be a</p> <p>3 certification of a participating producer as</p> <p>4 complying with the guidelines.</p> <p>5 A. Well, I don't exactly know what you</p> <p>6 mean by that, but everybody was certified unless</p> <p>7 they failed to meet the guidelines.</p> <p>8 Q. Okay.</p> <p>9 (Exhibit 86 marked.)</p> <p>10 Q. We are marking as Exhibit 86 a</p> <p>11 document bearing the Bates number UE331213</p> <p>12 through 15. Let me ask you to review this</p> <p>13 document, please. At least the letter, the</p> <p>14 first page.</p> <p>15 A. I've read the letter.</p> <p>16 Q. Okay. Do you recall receiving this</p> <p>17 letter on or about March 6, 2002?</p> <p>18 A. Not specifically, but it's in</p> <p>19 keeping, so, I'm sure --</p> <p>20 Q. You have no reason --</p> <p>21 A. I'm sure I must have. I was on the</p> <p>22 committee.</p> <p>23 Q. You're sure you must have?</p> <p>24 A. I'm sure I must have received it. I</p> <p>25 was on the committee.</p>
<p style="text-align: right;">Page 99</p> <p>1 A. You know, there was one other time</p> <p>2 and it was very many years ago, and I really</p> <p>3 can't tell you for sure when that was.</p> <p>4 Q. And what was the subject of that</p> <p>5 meeting?</p> <p>6 A. I was there in support of the</p> <p>7 salesman and something to do with production</p> <p>8 some way. I don't know what it was.</p> <p>9 Q. Okay. Nothing to do with the Animal</p> <p>10 Care guidelines?</p> <p>11 A. Oh, no. Not at all.</p> <p>12 Q. Okay. Do you have a vernacular that</p> <p>13 you use to describe the UEP's Animal Welfare</p> <p>14 Guidelines?</p> <p>15 A. I don't believe so.</p> <p>16 Q. You just referred to them as the</p> <p>17 guidelines?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. At some point the UEP decided</p> <p>20 to have a certification program for the</p> <p>21 guidelines, correct?</p> <p>22 A. Well, once the program was developed</p> <p>23 for -- producer program was developed, there was</p> <p>24 always known that there would be audit</p> <p>25 requirements to know that everybody was on the</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. Okay. I'm sorry. I just didn't hear</p> <p>2 your answer. This meeting talks about area</p> <p>3 meetings for animal welfare. Do you recall area</p> <p>4 meetings taking place?</p> <p>5 A. There were area meetings, not for</p> <p>6 animal welfare, but they conduct area meetings</p> <p>7 routinely or UEP does. UEP is a national</p> <p>8 organization that was formed several years ago</p> <p>9 from area UEP -- from different areas: the</p> <p>10 Midwest, California. As these merged together</p> <p>11 into one organization of UEP, then they still,</p> <p>12 from that point on, they maintained once a year,</p> <p>13 usually in August, they have area meetings</p> <p>14 around the country so that local producers could</p> <p>15 go to meetings and express their concerns. And</p> <p>16 that was just a practice that they have. So</p> <p>17 this references to the recent round of area</p> <p>18 meetings that they had. And they bring up</p> <p>19 whatever's a hot topic and they also listen to</p> <p>20 whatever members might bring forth to UEP that</p> <p>21 people that don't always travel to the national</p> <p>22 events.</p> <p>23 Q. The first sentence says: "The area</p> <p>24 meetings for animal welfare were a huge</p> <p>25 success."</p>

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<p style="text-align: right;">Page 102</p> <p>1 Do you recall that there were</p> <p>2 specific area meetings at which the Animal</p> <p>3 Welfare Program was being discussed --</p> <p>4 MR. ROBISON:</p> <p>5 Object to form.</p> <p>6 MR. BIRKHAUSER:</p> <p>7 Q. -- during this time period?</p> <p>8 A. No. I think more likely it was the</p> <p>9 area meetings and that this was -- this is a big</p> <p>10 item so it was -- this was the point of</p> <p>11 discussion. This is what they were bringing to</p> <p>12 everybody.</p> <p>13 Q. The Animal Welfare Guidelines was a</p> <p>14 matter of importance to UEP at that time.</p> <p>15 A. Sure.</p> <p>16 Q. And Mr. Gregory goes on: "250 people</p> <p>17 representing 102 egg production companies with</p> <p>18 ownership of more than 200 million hens were in</p> <p>19 attendance."</p> <p>20 Did you attend any of the area</p> <p>21 meetings?</p> <p>22 A. I don't think so. Routinely I do</p> <p>23 not. Dolph attends one in the southeast.</p> <p>24 Q. Pursuant to your responsibilities on</p> <p>25 the animal welfare committee, did you speak with</p>	<p style="text-align: right;">Page 104</p> <p>1 the total number of square inches of cage space</p> <p>2 within a house and determine at each point if</p> <p>3 you wanted birds on a certain cage density,</p> <p>4 divide that in there, and that's how many birds</p> <p>5 can go in the house. And that might mean that</p> <p>6 some cages had one more bird than other cages,</p> <p>7 but this was the solution to the problem</p> <p>8 involving existing facilities. It was called</p> <p>9 grandfathering those houses. And as they moved</p> <p>10 into it, knowing that there's going to be new</p> <p>11 production, we also set a date out there which</p> <p>12 was, I believe, 12-31-03 by the time we finally</p> <p>13 got a date established, that any installation of</p> <p>14 cages and housing, after that date, they would</p> <p>15 have to comply on an individual cage basis. The</p> <p>16 ones that were in place before that, for the use</p> <p>17 of their life, they could qualify by house</p> <p>18 averaging and be grandfathered to use that</p> <p>19 process.</p> <p>20 Q. Do you recall that being acceptable</p> <p>21 to the industry?</p> <p>22 MR. ROBISON:</p> <p>23 Object to the form.</p> <p>24 A. Ultimately it was.</p> <p>25 MR. BIRKHAUSER:</p>
<p style="text-align: right;">Page 103</p> <p>1 other producers about the guidelines?</p> <p>2 MR. ROBISON:</p> <p>3 Object to the form.</p> <p>4 A. No. Like you mean in terms of trying</p> <p>5 to explain it or sell it to others? No.</p> <p>6 MR. BIRKHAUSER:</p> <p>7 Q. You didn't promote the guidelines in</p> <p>8 any way?</p> <p>9 A. No.</p> <p>10 Q. Mr. Gregory talks about the house</p> <p>11 average phase-in plan in the third paragraph</p> <p>12 being acceptable to the industry. First of all,</p> <p>13 what was the house average phase-in plan?</p> <p>14 A. Must have to do with moving from</p> <p>15 current cage density to the recommendations, and</p> <p>16 the house average -- cages were not built for a</p> <p>17 particular -- for 67 inches, which was the</p> <p>18 ultimate goal here. So for a particular cage</p> <p>19 that on, say, 50 inches, if you were housing 50</p> <p>20 inches, you might have, say, six birds in there,</p> <p>21 but if you went to 67, you might be cut from 4</p> <p>22 because you can't have a part of a bird in</p> <p>23 there. So to handle this, what they decided to</p> <p>24 do was to consider the house in total instead of</p> <p>25 each individual cage. So they would calculate</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Did you speak with other producers</p> <p>2 about the guidelines generally, in other words,</p> <p>3 not to promote them but to answer questions?</p> <p>4 A. No. Just other than meetings. Just</p> <p>5 our welfare meetings, welfare committee</p> <p>6 meetings.</p> <p>7 Q. So other than the welfare meetings,</p> <p>8 you did not speak with other producers.</p> <p>9 A. No.</p> <p>10 Q. Okay. Whose job was it to speak with</p> <p>11 other producers about the guidelines?</p> <p>12 A. Probably UEP's.</p> <p>13 Q. Okay. Do you know if the chairman</p> <p>14 was called upon, the chairman of the animal</p> <p>15 welfare committee was called upon to speak with</p> <p>16 other producers?</p> <p>17 A. I wouldn't know, but I doubt it. He</p> <p>18 might have in some cases, but I doubt it.</p> <p>19 Q. Okay.</p> <p>20 (Exhibit 87 marked.)</p> <p>21 Q. The next exhibit we are going to mark</p> <p>22 is Exhibit 87. It is Moark0007699 with its</p> <p>23 attachment. Did you get a chance to look at</p> <p>24 Exhibit 87?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q. Do you recall receiving this e-mail 2 from Gene -- I assume it's Gene Gregory? 3 A. Not specifically, but it's -- yes, I 4 mean, I'm familiar with the report. He's 5 reporting on progress for signing producers onto 6 the program. 7 Q. Okay. And do you recall generally 8 that on or about April of 2002, 100 companies 9 had now filed the application for certification? 10 A. No. I mean, I saw these reports 11 every six months or so for many years, so it's 12 not unusual to see who's applied, you know, and 13 who's certified and that sort of thing. 14 Q. Cal-Maine had applied to be a 15 certified company? 16 A. Yes. 17 Q. And some of the other very large egg 18 producers had also applied to become a certified 19 company? 20 MR. ROBISON: 21 Object to form. 22 A. Many, yes. 23 MR. BIRKHAUSER: 24 Q. Sparboe Farms. 25 A. Let's see. Rose Acre's in the first</p>	<p style="text-align: right;">Page 108</p> <p>1 sales staff, correct? 2 MR. ROBISON: 3 Object to the form. Vague. 4 A. Pardon me? 5 MR. BIRKHAUSER: 6 Q. This is what you heard from sales 7 staff, that the customers desired Animal Welfare 8 Guidelines? 9 A. Well, I had seen it in the 10 specifications myself. I knew it. 11 VIDEOGRAPHER: 12 Pause one second. 13 MR. BIRKHAUSER: 14 Let's go off the record. 15 VIDEOGRAPHER: 16 One moment, please. We are now going 17 off the record. The time is 1:25 p.m. 18 (A recess was taken.) 19 (Exhibit 88 marked.) 20 VIDEOGRAPHER: 21 We are now going back on the record. 22 The time is 1:32 p.m. 23 MR. BIRKHAUSER: 24 Q. During the break we marked Exhibit 25 88, which is NUCAL-08md2002-0001628 through</p>
<p style="text-align: right;">Page 107</p> <p>1 100. 2 Q. Moark? 3 A. Sparboe may not be in here, were 4 they? 5 Q. Very last one on the first page. 6 A. Yes. Okay. 7 Q. Moark on the second page? 8 A. Uh-huh. 9 Q. Rose Acre on the last page? 10 A. Yes. 11 Q. So by April of 2002, the program was 12 a success? 13 MR. ROBISON: 14 Object to form. Vague. Foundation. 15 A. Well, the program is a voluntary 16 program for animal welfare, and these people are 17 signed up mostly because, I think, their 18 customers wanted them to sign up. So that's why 19 we did it. And I presume that's why these 20 others did it. The larger producers mostly had 21 -- their customers were some of the larger 22 retailers so -- who were desired that we -- that 23 their eggs come from a certified program. 24 MR. BIRKHAUSER: 25 Q. Again, this is what you heard from</p>	<p style="text-align: right;">Page 109</p> <p>1 1649. And these are UEP Producer Committee for 2 Animal Welfare Minutes dated October 17, 2001. 3 Do you recall attending the October 17, 2001 4 meeting? 5 MR. ROBISON: 6 Object to form. 7 A. No. I don't think I attended this 8 meeting. Looking at the attachments for the 9 welfare meeting, I was in several meetings 10 dealing with this kind of thing, but I don't 11 think I attended this one. 12 MR. BIRKHAUSER: 13 Q. Is that because you don't remember 14 going to Henderson, Nevada? 15 A. Pretty much. The last meeting I went 16 to in Nevada was in Las Vegas, which is nearby, 17 but it wasn't here. 18 Q. Okay. 19 A. Or the only time. 20 Q. Did you receive a copy of the minutes 21 after the meeting? 22 A. Sure. 23 Q. And did you review them? 24 A. And we had other meetings that were 25 dealing with this. This wasn't settled all at</p>

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<p style="text-align: right;">Page 110</p> <p>1 once.</p> <p>2 Q. Okay.</p> <p>3 MR. ROBISON:</p> <p>4 Do you have minutes from this</p> <p>5 meeting? I didn't know.</p> <p>6 MR. BIRKHAEUSER:</p> <p>7 I do, I think.</p> <p>8 MR. ROBISON:</p> <p>9 Okay.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 I can grab them later.</p> <p>12 MR. ROBISON:</p> <p>13 No big deal. I just wondered.</p> <p>14 A. This is preliminary work on the way</p> <p>15 to coming up with a final document.</p> <p>16 MR. BIRKHAEUSER:</p> <p>17 Q. Okay. So the audit form that appears</p> <p>18 on page 3 of this document is a draft audit</p> <p>19 form?</p> <p>20 A. Yes.</p> <p>21 Q. Did you individually work on the</p> <p>22 audit procedures?</p> <p>23 A. No, I worked as a committee member on</p> <p>24 the audit procedures.</p> <p>25 Q. When did the committee begin to work</p>	<p style="text-align: right;">Page 112</p> <p>1 would audit, who would perform the audits?</p> <p>2 A. No. That was an issue. We always</p> <p>3 knew we wanted USDA to do it if they would. And</p> <p>4 they at some point along the way or fairly early</p> <p>5 on, they accepted that role.</p> <p>6 Q. Was there controversy about how often</p> <p>7 the audits would be performed?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form.</p> <p>10 A. You say was there controversy?</p> <p>11 MR. BIRKHAEUSER:</p> <p>12 Q. Yes.</p> <p>13 MR. ROBISON:</p> <p>14 Same.</p> <p>15 A. No. I think everybody was -- felt</p> <p>16 like there had to be an annual audit of some</p> <p>17 sort. And there was some input from USDA. See,</p> <p>18 this is done on a company basis, not on a farm</p> <p>19 basis, so if a company owned -- if a company had</p> <p>20 several locations, I think the USDA somewhere</p> <p>21 along the way came up with a statistical model</p> <p>22 that said, well, you know, you really don't have</p> <p>23 to do them every one every time, you can audit a</p> <p>24 statistical sample so that it would stand for</p> <p>25 the entire operation, which we all understood</p>
<p style="text-align: right;">Page 111</p> <p>1 on audit procedures?</p> <p>2 A. You know, I think we had a --</p> <p>3 follow-up -- I don't know. This was early and</p> <p>4 we had some follow-up meetings in Chicago, which</p> <p>5 was just a stand alone meeting for the welfare</p> <p>6 committee, and we always met when the board met,</p> <p>7 which would be January, May, and October, so it</p> <p>8 was -- this was the early part of that time</p> <p>9 where we resolved the audit part of that.</p> <p>10 Q. Was there controversy over the audit</p> <p>11 procedures that were being discussed?</p> <p>12 MR. ROBISON:</p> <p>13 Object to form.</p> <p>14 A. There was no impasse. There were</p> <p>15 concerns. There was a lot of discussion.</p> <p>16 Everything was carefully considered, and it just</p> <p>17 -- you didn't sit down and knock it out in one</p> <p>18 or two days. It just took several meetings to</p> <p>19 get it done.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. Approximately how long did it take?</p> <p>22 A. You know, I want to say three or four</p> <p>23 meetings to resolve issues, have time to go away</p> <p>24 and think about it and come back and work again.</p> <p>25 Q. Were there controversies about who</p>	<p style="text-align: right;">Page 113</p> <p>1 that because that's the way they grade eggs.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. Right. Can you turn to page 1633?</p> <p>4 It should be entitled: "Animal Husbandry</p> <p>5 Guidelines/'Best Management Practices' For Egg</p> <p>6 Laying Flocks, Retail Edition 2001."</p> <p>7 Do you recall preparing a retail</p> <p>8 edition of the husbandry guidelines?</p> <p>9 MR. ROBISON:</p> <p>10 Object to form. Assumes facts.</p> <p>11 A. You know, a lot of this -- no, not</p> <p>12 specifically, but this is the kind of thing that</p> <p>13 wound up in the animal welfare manual, several</p> <p>14 of these things like this. I mean, this is the</p> <p>15 preliminary things being done early on as the</p> <p>16 program is becoming established. And so you'll</p> <p>17 probably find some of these things almost said</p> <p>18 the same way that's in today's manual, for</p> <p>19 example.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. Where is the manual kept? I'm sorry,</p> <p>22 how is it published?</p> <p>23 MR. ROBISON:</p> <p>24 Object to form.</p> <p>25 A. It's electronic on UEP's website.</p>

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<p style="text-align: right;">Page 114</p> <p>1 MR. BIRKHAUSER: 2 Q. If you could turn to page 1636. 3 VIDEOGRAPHER: 4 Five minutes. 5 MR. BIRKHAUSER: 6 Q. 1636 has the guideline specifications 7 for beak trimming, correct? 8 A. Yes, sir. 9 MR. ROBISON: 10 Object to form. 11 MR. BIRKHAUSER: 12 Q. Did Cal-Maine have to alter its 13 procedures to comply with the guidelines for 14 beak trimming? 15 MR. ROBISON: 16 Object to form. Vague. 17 A. Somewhat. 18 MR. BIRKHAUSER: 19 Q. How had Cal-Maine previously engaged 20 in beak trimming? 21 A. We trimmed at a later date, later 22 point, later age. 23 Q. Did it need to alter its procedures 24 in any manner other than time? 25 MR. ROBISON:</p>	<p style="text-align: right;">Page 116</p> <p>1 video deposition of Steve Storm. We're now 2 going back on the record. The time is 1:45 p.m. 3 MR. BIRKHAUSER: 4 Q. Okay. So prior to the promulgation 5 of the guidelines, Cal-Maine's crews were 6 trained in beak trimming. 7 A. Yes. 8 Q. And Cal-Maine monitored its beak 9 trimming crews for quality control. 10 A. Absolutely. 11 Q. Was the second requirement that 12 Cal-Maine needed to monitor them trimming at ten 13 days or younger; is that correct? 14 MR. ROBISON: 15 Object to form. 16 A. No. We -- actually our first beak 17 trimming is at a day old in the hatchery. 18 MR. BIRKHAUSER: 19 Q. Okay. So Cal-Maine didn't need to 20 alter its procedures in order to comply with -- 21 A. With that part. 22 Q. -- with that part. And this says 23 beak trimming is not recommended after eight 24 weeks of age. Did Cal-Maine need to alter its 25 procedures to comply with that portion?</p>
<p style="text-align: right;">Page 115</p> <p>1 Object to form. Vague. 2 MR. BIRKHAUSER: 3 Let me just rephrase that. 4 Q. Did Cal-Maine need to alter its beak 5 trimming procedures in any way other than the 6 time of the trimming in order to comply with the 7 Animal Welfare Guidelines? 8 MR. ROBISON: 9 Same. 10 A. Not much. About the same. Just 11 different timing. 12 MR. BIRKHAUSER: 13 Q. Just different timing. 14 VIDEOGRAPHER: 15 Two minutes. 16 MR. BIRKHAUSER: 17 All right. Why don't we go off the 18 record and change the tape. 19 VIDEOGRAPHER: 20 This is the end of tape number two of 21 the deposition of Steve Storm. We are going off 22 the record. The time is 1:42 p.m. 23 (Discussion off the record.) 24 VIDEOGRAPHER: 25 This begins tape number three in the</p>	<p style="text-align: right;">Page 117</p> <p>1 A. We did. We had to come back at eight 2 weeks instead of ten weeks. 3 Q. Okay. Again, if you'd just let me 4 finish the question, I was almost done. 5 A. Oh, I thought you were. 6 Q. So it did need to alter its 7 procedures to comply with the requirement that 8 beak trimming is not recommended after eight 9 weeks? 10 A. It did. 11 Q. Did it previously give vitamin C to 12 chickens after beak trimming? 13 MR. ROBISON: 14 Object to form. Vague. 15 A. I think it was primarily vitamin K. 16 It was some vitamins and electrolytes. 17 MR. BIRKHAUSER: 18 Q. So Cal-Maine didn't need to alter its 19 procedures to comply with this -- or the 20 guidelines? 21 A. We were pretty close. 22 Q. Did Cal-Maine -- before the 23 guidelines did Cal-Maine increase the level of 24 feed and water until the beaks were healed? 25 A. Not exactly. I mean, when you first</p>

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<p style="text-align: right;">Page 118</p> <p>1 trim them -- when you trim them at a later age, 2 they're shorter and they don't each much, so it 3 doesn't go down. It's available to them. 4 Q. So -- 5 A. But we had to make -- as a part of 6 the program, we had to make -- document that we 7 added the levels and such to be compliant. 8 Q. So Cal-Maine didn't really need to 9 alter its procedures to alter this? 10 MR. ROBISON: 11 Object to form. 12 A. I didn't feel like we did, but we did 13 alter that. 14 COURT REPORTER: 15 I didn't hear what you said. 16 A. I said we did alter the procedures. 17 MR. BIRKHAEUSER: 18 Q. And prior to the guidelines, 19 Cal-Maine cleaned the blade and guide hole to 20 the beak trimmer? 21 A. We did not have a policy -- like here 22 it gives numbers and times and things like that. 23 It was left up to the operator, but we began to 24 look at it differently and to look to -- to 25 check it every -- to clean it on a --</p>	<p style="text-align: right;">Page 120</p> <p>1 hours in closed houses? 2 MR. ROBISON: 3 Object to form. 4 A. We -- our program changed a little 5 from time to time. I think we went down to 12 6 hours was what was our program. And I think 7 they were talking about -- here they're 8 referring to minimum lamp period, and we were in 9 excess of that, so I don't think it required a 10 change. 11 MR. BIRKHAEUSER: 12 Q. Okay. Did Cal-Maine have to alter 13 its feeding program for molting hens as a result 14 of the guidelines? 15 MR. ROBISON: 16 Object to form. 17 A. No. 18 MR. BIRKHAEUSER: 19 Q. And you said that Cal-Maine permitted 20 35 percent of the hens' weight to be lost and 21 the guidelines permit 30 percent; is that 22 correct? 23 A. (Witness nodding head.) 24 Q. So a 5 percent difference. 25 MR. ROBISON:</p>
<p style="text-align: right;">Page 119</p> <p>1 periodically as indicated. 2 Q. This just says regularly. 3 A. Well, it wound up saying every -- 4 well, the time frame on it, too. Again, this 5 might have been an interim portion of the rule. 6 Q. Okay. With respect to molting, can 7 you take a look at the requirements on page 1637 8 for the induced molt? 9 A. Yes. 10 Q. Did Cal-Maine need to alter its 11 procedures to comply with the guidelines -- 12 recommendations for induced molt? 13 MR. ROBISON: 14 Object to form. Vague. 15 Mischaracterizes. 16 A. Slightly. Our target weight loss was 17 ideally 35 percent, between 30 and 35 percent, 18 and this said no more than 30. 19 MR. BIRKHAEUSER: 20 Q. Prior to the guidelines, Cal-Maine 21 made water available at all times to molting 22 hens? 23 A. Sure, yeah. Absolutely. 24 Q. And prior to the guidelines, 25 Cal-Maine reduced the light period to eight</p>	<p style="text-align: right;">Page 121</p> <p>1 Object to form. 2 A. That was our target. 3 MR. BIRKHAEUSER: 4 Q. And you returned feed to the bird 5 after the molt. 6 MR. ROBISON: 7 Object to form. Vague. 8 A. Did we return feed to the bird? 9 MR. BIRKHAEUSER: 10 Q. Prior to the guidelines, yes. 11 MR. ROBISON: 12 Same objection. 13 A. Still don't understand. 14 MR. BIRKHAEUSER: 15 Q. Okay. Prior to the guidelines, you 16 returned feed to the bird after the bird had 17 lost 35 percent of its body weight? 18 A. Well, there were other guidelines. 19 You know, you watch mortality very carefully. 20 And you had to -- you had to do everything 21 management wise very well in order to make it to 22 34, 35 percent. If you kept the house too cool, 23 if you -- if the flock was not uniform enough, 24 bird to bird, it just wouldn't happen. The 25 mortality would increase and you would feed the</p>

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<p style="text-align: right;">Page 122</p> <p>1 birds.</p> <p>2 Q. So what I'm trying to compare is</p> <p>3 Cal-Maine's practices prior to the guidelines</p> <p>4 and its practices after the guidelines had been</p> <p>5 instituted and Cal-Maine had agreed to comply</p> <p>6 with them.</p> <p>7 A. We changed our target.</p> <p>8 Q. And the target was 35 percent</p> <p>9 previously and 30 percent at the guidelines?</p> <p>10 A. Right.</p> <p>11 Q. Okay. And then handling</p> <p>12 transportation and slaughter is next. Could you</p> <p>13 take a look at those requirements, please?</p> <p>14 A. Yes.</p> <p>15 Q. Did Cal-Maine have to alter its</p> <p>16 procedures with respect to handling</p> <p>17 transportation and slaughter after it agreed to</p> <p>18 follow the guidelines?</p> <p>19 MR. ROBISON:</p> <p>20 Object to form.</p> <p>21 A. Essentially, no. However, we had to</p> <p>22 get religion. I mean, this is what you want,</p> <p>23 but we had to spend more management time</p> <p>24 insuring that things were handled just this way</p> <p>25 all the time by the crews that were involved</p>	<p style="text-align: right;">Page 124</p> <p>1 supposed to do it a certain careful way, but if</p> <p>2 they meant all day long of doing this, removing</p> <p>3 chickens and you don't watch them closely, they</p> <p>4 get tired and they may get sloppy and not handle</p> <p>5 the bird as well, so we had to manage more</p> <p>6 carefully to be sure, train more. As a matter</p> <p>7 of fact, for many years we would show the</p> <p>8 training video to the crews prior to their</p> <p>9 entering the house for, you know, every day if</p> <p>10 needed, so that they would be reminded this is</p> <p>11 what we want.</p> <p>12 Q. Did Cal-Maine train its workers prior</p> <p>13 to the institution of the guidelines?</p> <p>14 MR. ROBISON:</p> <p>15 Object to form. Vague.</p> <p>16 A. Yes, we did. But as I said, you</p> <p>17 know, the difference was that we -- that this</p> <p>18 had a bright light on it. This is very</p> <p>19 important now. It's not just something that</p> <p>20 happens. We've got to be sure that it happens</p> <p>21 right. So we gave it much more scrutiny and</p> <p>22 much more attention.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. So it wasn't really that you were</p> <p>25 altering -- it wasn't really that Cal-Maine was</p>
<p style="text-align: right;">Page 123</p> <p>1 working.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. Prior to the guidelines, did</p> <p>4 Cal-Maine euthanize its hens in a different</p> <p>5 manner?</p> <p>6 MR. ROBISON:</p> <p>7 Object to form.</p> <p>8 A. Different from what?</p> <p>9 MR. BIRKHAEUSER:</p> <p>10 Q. Different from the guidelines. So,</p> <p>11 in other words, the guidelines suggest cervical</p> <p>12 dislocation as an acceptable method or carbon</p> <p>13 dioxide can be used. Did Cal-Maine employ other</p> <p>14 procedures prior to the guidelines?</p> <p>15 MR. ROBISON:</p> <p>16 Object to form.</p> <p>17 A. No.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. The second one is hens should be</p> <p>20 handled so as to minimize bone breakage or</p> <p>21 injury. Cal-Maine employ a different procedure</p> <p>22 prior to the guidelines?</p> <p>23 A. Not different. But, again, we had to</p> <p>24 insure that the procedure was -- that our people</p> <p>25 were working within this. You know, everybody's</p>	<p style="text-align: right;">Page 125</p> <p>1 altering its procedures, it was just managing</p> <p>2 that the existing procedures were followed.</p> <p>3 A. Yes.</p> <p>4 MR. ROBISON:</p> <p>5 Object to form. Vague.</p> <p>6 MR. BIRKHAEUSER:</p> <p>7 Q. The next page is 1638, and the topic</p> <p>8 is chick euthanasia. Did Cal-Maine need to</p> <p>9 alter its procedures to comply with the chick</p> <p>10 euthanasia guideline?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form.</p> <p>13 A. No.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. So prior to the guidelines, Cal-Maine</p> <p>16 employed one of the two methods of chick</p> <p>17 euthanasia that are listed herein, high speed</p> <p>18 maceration and carbon dioxide?</p> <p>19 A. That's correct.</p> <p>20 Q. What is high speed maceration?</p> <p>21 A. It's a grinder.</p> <p>22 Q. How --</p> <p>23 A. This would be for the hatcheries.</p> <p>24 Q. How frequently are chicks euthanized?</p> <p>25 MR. ROBISON:</p>

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<p style="text-align: right;">Page 126</p> <p>1 Object to form.</p> <p>2 A. Only once.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Under what circumstances are chicks</p> <p>5 euthanized?</p> <p>6 MR. ROBISON:</p> <p>7 Object to form. Vague.</p> <p>8 A. In the hatcheries, we euthanize the</p> <p>9 males.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. Are the females --</p> <p>12 A. Unlike the broiler industry, our</p> <p>13 males don't lay eggs, so we can't use them.</p> <p>14 Q. Unlike the what industry?</p> <p>15 A. The broiler industry grows out --</p> <p>16 they're meat chickens. They grow out</p> <p>17 everything. We can't do that.</p> <p>18 Q. Are there any circumstances under</p> <p>19 which female chicks are euthanized?</p> <p>20 A. Not that I know about.</p> <p>21 Q. Okay. If you could turn back to page</p> <p>22 1635, these are the recommendations for housing</p> <p>23 and space allowance.</p> <p>24 COURT REPORTER:</p> <p>25 What's that?</p>	<p style="text-align: right;">Page 128</p> <p>1 and a third -- 53.3 inches, and probably some 10</p> <p>2 or 15 years before, had some that were at 48</p> <p>3 inches. A lot of the industry was still at 48</p> <p>4 inches. And so going from current standards of</p> <p>5 practice to this has to do with a phase-in of</p> <p>6 how do you get from where you are, and that's</p> <p>7 awfully important, that the program came up with</p> <p>8 several steps to achieve this because to do this</p> <p>9 all at once would eliminate a tremendous number</p> <p>10 of chickens, and we wouldn't be able to supply</p> <p>11 our customers because you couldn't -- there's a</p> <p>12 lot of replacement housing could be built, you</p> <p>13 know, when you undergo a program like this, and</p> <p>14 it was not enough time to do it. So we spread</p> <p>15 it out a little bit and made progress towards</p> <p>16 it.</p> <p>17 As it happened, our recommendation</p> <p>18 was a 12-year period, and that was deemed</p> <p>19 unacceptable by FMI. They wanted an eight-year</p> <p>20 period, so we developed that, and it was</p> <p>21 accepted and we began to -- the steps to get</p> <p>22 there. And so everybody arrived at 67 inches by</p> <p>23 the last step and with the birds that were</p> <p>24 housed in late 2008.</p> <p>25 Q. Have you completed your answer?</p>
<p style="text-align: right;">Page 127</p> <p>1 MR. BIRKHAEUSER:</p> <p>2 Housing and space allowance.</p> <p>3 Q. Can you take a look at the first</p> <p>4 requirement, please? Then I'm going to ask you</p> <p>5 the same question.</p> <p>6 A. Okay.</p> <p>7 Q. Did Cal-Maine need to alter its</p> <p>8 operations to comply with the first requirement</p> <p>9 of the recommendations for housing and space</p> <p>10 allowance?</p> <p>11 A. Yes.</p> <p>12 Q. And how did it need to do so?</p> <p>13 A. First off, this recommendation looks</p> <p>14 like something that's written by the scientific</p> <p>15 committee and it says -- it gave a range of</p> <p>16 space allowance that was recommended, and the</p> <p>17 producer committee then took that range and</p> <p>18 determined that the smaller white chickens or</p> <p>19 smaller frame weighed less. They should be on</p> <p>20 the lower end of that 67 inches, and the</p> <p>21 larger-bodied brown chickens would be on the</p> <p>22 upper end. And so we wound up with -- after</p> <p>23 this we wound up with targets of 67 and 76 for</p> <p>24 browns. That's not where we were or where the</p> <p>25 industry was. Cal-Maine was predominantly at 53</p>	<p style="text-align: right;">Page 129</p> <p>1 A. I have. Thank you.</p> <p>2 Q. Okay. I'm sorry. I just didn't want</p> <p>3 to interrupt you if you hadn't. From an</p> <p>4 operations' standpoint, what did you do to</p> <p>5 comply with the first recommendation for housing</p> <p>6 and space allowance?</p> <p>7 MR. ROBISON:</p> <p>8 Object to form. Vague.</p> <p>9 A. Well, at this point this</p> <p>10 recommendation as written was not the program,</p> <p>11 so when we had the program that dealt with this,</p> <p>12 then we were in compliance. The requirement was</p> <p>13 that as of a certain date, the birds that were</p> <p>14 -- the birds that were hatched as of a certain</p> <p>15 date had to be caged at a certain different</p> <p>16 density as steps went along. We did that</p> <p>17 precisely.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. Okay. So generally once Cal-Maine</p> <p>20 was required to comply with the guidelines, it</p> <p>21 housed fewer birds per cage.</p> <p>22 MR. ROBISON:</p> <p>23 Object to form. Vague.</p> <p>24 Mischaracterizes.</p> <p>25 A. We housed fewer birds per existing</p>

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<p style="text-align: right;">Page 130</p> <p>1 cage.</p> <p>2 MR. BIRKHAEUSER:</p> <p>3 Q. And that process took a number of</p> <p>4 years, correct?</p> <p>5 MR. ROBISON:</p> <p>6 Same objections.</p> <p>7 A. Yes.</p> <p>8 MR. BIRKHAEUSER:</p> <p>9 Q. How long did it take?</p> <p>10 MR. ROBISON:</p> <p>11 Same objections.</p> <p>12 A. Seems like it was in the program from</p> <p>13 2004 to 2008.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. When you say "in the program," are</p> <p>16 you referring to the UEP guidelines?</p> <p>17 A. The UEP Animal Welfare Guidelines.</p> <p>18 Q. Okay. My question, though, was how</p> <p>19 long it took Cal-Maine to comply.</p> <p>20 MR. ROBISON:</p> <p>21 Comply with what?</p> <p>22 A. With what?</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. With the cage space allowances.</p> <p>25 A. We were in step with the rest of the</p>	<p style="text-align: right;">Page 132</p> <p>1 be designed and maintained to avoid injury to</p> <p>2 birds."</p> <p>3 Did Cal-Maine need to alter its</p> <p>4 procedures to comply with that portion of the</p> <p>5 guidelines?</p> <p>6 MR. ROBISON:</p> <p>7 Object to form. Vague. Incomplete.</p> <p>8 A. No. The -- again, when we got to the</p> <p>9 final document that spelled these things out, I</p> <p>10 think we maintain our cages, but the -- that's</p> <p>11 just -- that's normal, that's what you do in</p> <p>12 animal husbandry.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. Sure. Cal-Maine didn't knowingly</p> <p>15 permit its cages to injure the birds prior to</p> <p>16 the institution of the guidelines, correct?</p> <p>17 A. No.</p> <p>18 Q. No. Prior to the guidelines, did</p> <p>19 Cal-Maine cage feeder and water systems take</p> <p>20 into account proven advantages for bird comfort</p> <p>21 and health?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form. Vague.</p> <p>24 A. I don't know exactly what is meant by</p> <p>25 that. We -- you know, our cages and feeders and</p>
<p style="text-align: right;">Page 131</p> <p>1 industry, making changes as required on the</p> <p>2 dates required.</p> <p>3 Q. So you met the deadlines.</p> <p>4 A. We met the deadlines.</p> <p>5 Q. Okay. You didn't comply before the</p> <p>6 deadlines came.</p> <p>7 MR. ROBISON:</p> <p>8 Object to form.</p> <p>9 A. No.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. And were you ultimately responsible</p> <p>12 for insuring that the regions under your</p> <p>13 operation, the regions that you were responsible</p> <p>14 for complied with the guidelines?</p> <p>15 A. Yes.</p> <p>16 Q. And did you visit the regions for the</p> <p>17 purpose of making sure that your regions --</p> <p>18 A. Certainly --</p> <p>19 Q. -- your regions were complying with</p> <p>20 the guidelines?</p> <p>21 A. Yes. I had routine visits to my</p> <p>22 areas of responsibility, and that was certainly</p> <p>23 covered.</p> <p>24 Q. The second requirement under the</p> <p>25 housing and space allowance is: "Cages should</p>	<p style="text-align: right;">Page 133</p> <p>1 water systems were -- they worked well in</p> <p>2 assessing bird health, maintaining bird health.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Cal-Maine had state of the art cages</p> <p>5 prior to the guidelines?</p> <p>6 A. They actually had everything. We</p> <p>7 acquired a lot of companies over time, and we</p> <p>8 bought what they had and used it for a while,</p> <p>9 and if it's ones that were less desirable, we</p> <p>10 replaced for something better, more in the line</p> <p>11 of what you're talking about. But we had the</p> <p>12 opportunity to see just about everything, you</p> <p>13 know, based on acquisitions.</p> <p>14 Q. But in the normal course of</p> <p>15 operations, even before the guidelines, if</p> <p>16 Cal-Maine acquired a company that had cages that</p> <p>17 injured birds --</p> <p>18 A. We fixed them.</p> <p>19 Q. -- Cal-Maine would fix them, correct?</p> <p>20 A. Surely.</p> <p>21 Q. Did Cal-Maine need to alter its</p> <p>22 procedures to allow birds to stand upright in</p> <p>23 the cage?</p> <p>24 MR. ROBISON:</p> <p>25 Object to form. Vague.</p>

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<p style="text-align: right;">Page 134</p> <p>1 A. No. That -- that item is put in by 2 the scientific committee as addressing the 3 design of some cages. Some cages were not as 4 desirable as others in this regard, and 5 ultimately we disallowed that cage type as we 6 got -- as we got into the program. Disallowed 7 from the standpoint of replacement cages, new 8 cages. New ones weren't built that way anymore. 9 MR. BIRKHAEUSER: 10 Q. When you say "that way," what do you 11 mean? 12 A. In such a way that there was not 13 enough cage height. 14 Q. Okay. But Cal-Maine's cages 15 permitted birds to stand up? 16 MR. ROBISON: 17 Object to the form. Vague. 18 A. Cal-Maine might have had some cages 19 that were troublesome because those were ones 20 that we had purchased that way, but they were 21 not desirable. We moved away from that type of 22 cage. 23 MR. BIRKHAEUSER: 24 Q. And in Cal-Maine's existing 25 facilities, its birds could stand?</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No changes. 2 Q. It didn't need to alter its 3 procedures to comply with the requirements for 4 -- of the housing and space allowance 5 requirements? 6 MR. ROBISON: 7 Object to form. 8 A. No. And existing feeders were 9 grandfathered still. What you would alter would 10 have to do with new facilities, and so it's -- 11 no, we didn't have to alter anything. 12 MR. BIRKHAEUSER: 13 Q. And with respect to number 5, prior 14 to the guidelines, Cal-Maine permitted its hens 15 continuous access to clean drinking water? 16 A. Absolutely. 17 Q. Okay. Prior to the guidelines, 18 Cal-Maine had light sufficient to allow 19 inspection of the birds? 20 MR. ROBISON: 21 Object to form. 22 A. Yes. 23 MR. BIRKHAEUSER: 24 Q. So Cal-Maine didn't need to alter its 25 procedures to comply with requirement number 6</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes. 2 MR. ROBISON: 3 Object to form. 4 MR. BIRKHAEUSER: 5 Q. That's prior to the guidelines. 6 MR. ROBISON: 7 Same. 8 A. Yes. 9 MR. BIRKHAEUSER: 10 Q. Okay. 11 A. But you realize some of these things 12 are in the eye of the beholder. They could 13 always stand up. But, you know, you want enough 14 -- what's enough height, you know. That's 15 difficult to define, so the committee over time 16 did define that and put dimensions on it and to 17 correct this as an issue moving forward and to 18 explain to the cage manufacturers how to build 19 cages that would be acceptable. 20 Q. Thank you. Prior to the guidelines, 21 did Cal-Maine's feeders permit all birds to eat 22 feed? 23 A. Certainly. 24 Q. So Cal-Maine didn't need to alter its 25 --</p>	<p style="text-align: right;">Page 137</p> <p>1 of the housing and space allowance guidelines? 2 MR. ROBISON: 3 Same objections. 4 A. No. 5 MR. BIRKHAEUSER: 6 Q. With respect to guideline number 7 -- 7 MR. ROBISON: 8 Objection. Form. 9 MR. BIRKHAEUSER: 10 I'm sorry? 11 MR. ROBISON: 12 Objection to form. You called this a 13 guideline, and I object to that. I don't think 14 these are guidelines. 15 MR. BIRKHAEUSER: 16 Okay. 17 Q. With respect to recommendation number 18 7, prior to the guidelines, did Cal-Maine have 19 environmental conditions that would allow their 20 birds to maintain normal body temperature? 21 MR. ROBISON: 22 Objection. Form. 23 A. Yes. 24 MR. BIRKHAEUSER: 25 Q. So Cal-Maine didn't need to alter its</p>

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<p style="text-align: right;">Page 138</p> <p>1 procedures to comply with the recommendations 2 set forth in number 7? 3 MR. ROBISON: 4 Objection. Form. 5 A. No. 6 MR. BIRKHAEUSER: 7 Q. With respect to number 8, did 8 Cal-Maine need to alter its procedures at all to 9 comply with this recommendation? 10 MR. ROBISON: 11 Objection. Form. 12 A. No. 13 MR. BIRKHAEUSER: 14 Q. Prior to these recommendations, did 15 Cal-Maine have standby generators and alarm 16 systems? 17 A. Yes. 18 MR. ROBISON: 19 Object to form. 20 MR. BIRKHAEUSER: 21 Q. So Cal-Maine didn't need to alter its 22 procedures to comply with this recommendation? 23 A. No. 24 MR. ROBISON: 25 Object to form.</p>	<p style="text-align: right;">Page 140</p> <p>1 A. I think I do. Can I have just a 2 moment to look a little further? 3 Q. Sure. 4 A. I think I know the purpose. 5 Q. What was the purpose? 6 A. I think he was -- he did this to help 7 explain the concept of house averaging. 8 Q. Okay. 9 A. So that the members -- you could 10 think about that as opposed to whatever 11 particular cage configuration they might have 12 that would cause them to have an advantage or a 13 disadvantage because of the number of birds they 14 might have to remove to comply. 15 Q. And he suggests also that mortality 16 will help the producers comply with the cage 17 space limitations. 18 MR. ROBISON: 19 Object to form. 20 A. I think his point is that mortality 21 is naturally occurring, and as that happens, 22 there's more space in there for those that 23 remain. 24 MR. BIRKHAEUSER: 25 Q. So you won't have to actually dispose</p>
<p style="text-align: right;">Page 139</p> <p>1 MR. BIRKHAEUSER: 2 Q. If you turn to page 1640 -- 1639. 3 A. Yes. 4 Q. Entitled "Cage Space Allowance and 5 Mileposts Concept by Ken Looper." Have you read 6 this document before? 7 A. Possibly. This looks like something 8 he would have prepared for an UEP meeting, some 9 discussion that he might have had. 10 Q. Do you recall Mr. Looper being 11 involved in the issue of cage space allowance? 12 MR. ROBISON: 13 Object to form. 14 A. What do you mean "being involved"? 15 MR. BIRKHAEUSER: 16 Q. Do you recall him writing or speaking 17 about the subject? 18 A. Like this, for example? Yes, this is 19 just like him. 20 Q. That was within his -- 21 A. Sure. 22 Q. -- bailiwick. 23 A. Yes. 24 Q. Do you know the purpose of which Mr. 25 Looper wrote this cage space allowance article?</p>	<p style="text-align: right;">Page 141</p> <p>1 of producing birds. Mortality would assist you 2 in reducing your flock to comply with the cage 3 space limitations? 4 MR. ROBISON: 5 Object to form. Mischaracterizes. 6 A. And here he is, I think, from his 7 couple of pages of explanation there, then he 8 writes the follow-up attachments are what 9 provide the basis for having a -- for stepping 10 into the program so that you don't have to move 11 all the way from where you are to 67 all at 12 once, so that you take some time to get there, 13 so all of this, he's -- what he's doing is 14 explaining a way to everybody out there who may 15 be -- might not have been thinking about this 16 but other things. Look, if you stop and think 17 about it, here's a way that this can be made to 18 work and you just don't have to automatically be 19 against it. Here's a way that it can be done so 20 that it would be -- you can move towards animal 21 welfare without having to accept a competitive 22 disadvantage. So I think that's the purpose of 23 this paper. 24 MR. BIRKHAEUSER: 25 Q. Okay.</p>

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<p style="text-align: right;">Page 142</p> <p>1 A. Now, he didn't tell me that was the 2 purpose of this, but that's what I see. 3 Q. Okay. That's all I have on that 4 question. 5 MR. BIRKHAEUSER: 6 Why don't we take a quick break. 7 VIDEOGRAPHER: 8 Okay. One moment, please. We are 9 now going off the record. The time is 2:20 p.m. 10 (A recess was taken.) 11 VIDEOGRAPHER: 12 We are now going back on the record. 13 The time is 2:33 p.m. 14 MR. BIRKHAEUSER: 15 Q. Who, besides you, was responsible for 16 insuring that Cal-Maine complied with the UEP 17 animal welfare requirements? 18 A. Well, Dolph, who was president of our 19 company, and everybody that worked for him. All 20 management had responsibility to see that we 21 conducted our business accordingly. 22 Q. At the time it was your 23 responsibility to manage managers in this 24 specific region, correct? 25 MR. ROBISON:</p>	<p style="text-align: right;">Page 144</p> <p>1 insuring compliance with the UEP requirements? 2 MR. ROBISON: 3 Objection. Vague. 4 A. Well, he's the head of the company 5 and he's committing the company to do so, so it 6 was up to management to follow through. 7 MR. BIRKHAEUSER: 8 Q. This morning you talked about 9 managers at the different production facilities. 10 A. Yes. 11 Q. Did you call them field managers? 12 A. General managers. 13 Q. General managers. 14 A. That's the overall manager at every 15 site. 16 Q. And how many facilities did Cal-Maine 17 have in the 2002 time frame? 18 A. We've had so many acquisitions. If I 19 check my notes, I can see. 20 MR. ROBISON: 21 He was going to use these I think 22 during the 30(b)(6) session, but it's come up 23 now so -- 24 A. Approximately 18, 19. 25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 143</p> <p>1 Object to form. Vague. 2 A. At the time of implementation I 3 worked with the managers that reported to me at 4 that time, yes. 5 MR. BIRKHAEUSER: 6 Q. And how many other VPs of operation 7 were there at the time of the implementation of 8 the requirements? 9 A. I think three. 10 Q. Who were they? 11 A. Jack Self, Bob Scott, David Jenkins. 12 MR. ROBISON: 13 You're talking about 2002 14 implementation? 15 MR. BIRKHAEUSER: 16 I'm sorry? 17 MR. ROBISON: 18 You're talking about 2002 19 implementation time frame? 20 MR. BIRKHAEUSER: 21 Yes. 22 MR. ROBISON: 23 Okay. 24 MR. BIRKHAEUSER: 25 Q. What role did Mr. Baker play in</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. So you had 18 or 19 general managers 2 at the time. 3 A. That would be about right. 4 Q. And I think it's fair to say that in 5 your previous testimony that the area that 6 Cal-Maine had to alter -- the area in which 7 Cal-Maine had to alter its practices was really 8 the cage space requirements; is that correct? 9 MR. ROBISON: 10 Objection. Mischaracterizes. 11 A. That was a major area, but we had to 12 comply in all areas, and documentation, 13 preparation for audits to demonstrate 14 compliance, all of those things were additional, 15 too. 16 MR. BIRKHAEUSER: 17 Q. So it was going to fall on the 18 general managers to actually implement the 19 guidelines, correct? 20 MR. ROBISON: 21 Objection. Form. Vague. 22 A. They had a big role in 23 implementation. 24 MR. BIRKHAEUSER: 25 Q. Okay. I've been calling them</p>

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<p style="text-align: right;">Page 146</p> <p>1 guidelines. Did you call them something else?</p> <p>2 A. That's fine. We call it the Animal</p> <p>3 Welfare Program, but what's the difference?</p> <p>4 Q. Animal Welfare Program. So were any</p> <p>5 general managers -- any of Cal-Maine's general</p> <p>6 managers, did they participate in animal welfare</p> <p>7 committee meetings?</p> <p>8 A. No.</p> <p>9 Q. Okay. So was it principally your job</p> <p>10 to communicate with your general managers about</p> <p>11 how Cal-Maine should comply with the Animal</p> <p>12 Welfare Program?</p> <p>13 A. Yes.</p> <p>14 Q. And did you visit the facilities to</p> <p>15 discuss this with the general managers?</p> <p>16 A. Yes. And we additionally wrote a</p> <p>17 program -- a written program for Cal-Maine as to</p> <p>18 how we were going to meet all these guidelines</p> <p>19 and do all of that and commit it to writing for</p> <p>20 their reference and for their training.</p> <p>21 Forms -- a lot of these things for documentation</p> <p>22 we might have -- we got to the point of needing</p> <p>23 a standardization of forms that were used to,</p> <p>24 say, part of that -- for example, you had to</p> <p>25 have a daily -- at least daily documentation of</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. What was that called?</p> <p>2 A. Animal Welfare Program.</p> <p>3 Q. Cal-Maine's Animal Welfare Program?</p> <p>4 A. Probably says that. Ryn McDonald</p> <p>5 wrote it.</p> <p>6 Q. And that is the individual you've</p> <p>7 described before, R-y-n McDonald?</p> <p>8 A. It is.</p> <p>9 Q. And do you know when it was written?</p> <p>10 A. Upon the inception of the program.</p> <p>11 Q. So at a given facility, the cage</p> <p>12 space requirements of the Animal Welfare Program</p> <p>13 actually reduced the number of hens at a given</p> <p>14 facility, correct?</p> <p>15 MR. ROBISON:</p> <p>16 Object to form. Assumes facts not in</p> <p>17 evidence.</p> <p>18 A. As compared to what it used to be?</p> <p>19 MR. BIRKHAEUSER:</p> <p>20 Q. Prior to the Animal Welfare Program.</p> <p>21 MR. ROBISON:</p> <p>22 Same objections.</p> <p>23 A. Yeah. I would say it decreased the</p> <p>24 number of hens. You know, we had just gone</p> <p>25 through a period when McDonald's published</p>
<p style="text-align: right;">Page 147</p> <p>1 the feed and water and lighting and all these</p> <p>2 things were present as needed and other things,</p> <p>3 too, so we wanted to be sure that every location</p> <p>4 had these things, and so we standardized forms a</p> <p>5 lot to accomplish these things.</p> <p>6 Q. Did Cal-Maine previously document the</p> <p>7 giving of feed to hens?</p> <p>8 MR. ROBISON:</p> <p>9 Object to form. Vague.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. Prior to the Animal Welfare Program?</p> <p>12 MR. ROBISON:</p> <p>13 Same.</p> <p>14 A. I would say yes because feed's</p> <p>15 important. That's part of our flock records.</p> <p>16 But we had no way to convey that the lights were</p> <p>17 on every day or that -- other things that -- or</p> <p>18 to say that there's water there. We just knew</p> <p>19 when water wasn't there because they quit</p> <p>20 laying. But other things you do just to</p> <p>21 document your procedures were not standard.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. You said that Cal-Maine prepared a</p> <p>24 written procedural manual of some sort.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 149</p> <p>1 guidelines that were even more stringent than</p> <p>2 what we had for theirs and they were still</p> <p>3 picketing because they weren't happy. The</p> <p>4 animal welfare people were not happy. They were</p> <p>5 picketing the retailers. So this was our</p> <p>6 solution that was carried forward. Now, had we</p> <p>7 not done that, it might have been worse because</p> <p>8 today they're not happy with 67 in California;</p> <p>9 they want 112 or almost double, 116 inches. So</p> <p>10 it was really a moving target, and this was --</p> <p>11 this might have been a way to have the most hens</p> <p>12 possible. I'm not sure because had we not done</p> <p>13 that, something worse would be coming along.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. It did, in fact, reduce the number of</p> <p>16 hens at a given facility, correct?</p> <p>17 MR. ROBISON:</p> <p>18 Same objections. Asked and answered.</p> <p>19 A. In a given house from the number you</p> <p>20 house this time to the number you house next</p> <p>21 time, it was less because we were giving more</p> <p>22 space within that house.</p> <p>23 MR. BIRKHAEUSER:</p> <p>24 Q. And consequently, fewer eggs were</p> <p>25 produced at a given facility, correct?</p>

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<p style="text-align: right;">Page 150</p> <p>1 MR. ROBISON: 2 Objection. 3 A. Which caused the need for more 4 facilities. Which caused the need for more 5 facilities so you could have eggs. 6 MR. BIRKHAUSER: 7 Q. Complying with the Animal Welfare 8 Program reduced the number of eggs produced at a 9 given facility? 10 MR. ROBISON: 11 Objection. Form. Foundation. 12 Vague. Mischaracterizes. 13 A. Existing facilities were required to 14 stock fewer hens per house. 15 MR. BIRKHAUSER: 16 Q. And how frequently did you visit the 17 facilities to insure compliance with the cage 18 space requirements of the Animal Welfare 19 Program? 20 A. Well, I visited facilities on 21 variable frequencies depending upon the facility 22 and all the activities at the time. Wasn't 23 necessary to visit to determine our compliance 24 with the program. We can see that from the 25 reports every week.</p>	<p style="text-align: right;">Page 152</p> <p>1 compilation of all the reports of general 2 managers that are given at a semi-annual 3 meeting. 4 Q. And has -- for how long has Cal-Maine 5 had a semi-annual meeting of general managers? 6 MR. ROBISON: 7 Object to form. Foundation. 8 A. When did they begin? 9 MR. BIRKHAUSER: 10 Q. When did they begin? 11 A. Prior to 1982 or '3. Somewhere. For 12 many years. 13 Q. And today does Cal-Maine continue to 14 have semi-annual meetings for the general 15 managers? 16 A. Yes. 17 Q. Does it always take place in Jackson? 18 A. No. 19 Q. Do all general managers attend? 20 MR. ROBISON: 21 Object to form. 22 A. Occasionally, if there's an exception 23 due to a medical issue with a family member or 24 something like that, with a manager, but they 25 all attend.</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. And the reports that you received, 2 you believe to be accurate? 3 A. Flock records. 4 Q. Flock records were accurate? 5 A. Right. 6 Q. Okay. 7 (Exhibit 89 marked.) 8 Q. The next document that we're going to 9 look at is a document with the Bates number 10 CM00208259, and just for the record, this is a 11 very long document, and I'm just going to use 12 some selected pages, which I'll read into the 13 record when we get there. 14 MR. ROBISON: 15 So you just brought certain pages out 16 of the -- 17 MR. BIRKHAUSER: 18 Yeah. The document's, like, 400 19 pages long. 20 Q. And I just have general questions for 21 you about this. Just looking at the first page, 22 do you recognize this document? 23 A. Yes. 24 Q. And what is it? 25 A. It's the cover page for the</p>	<p style="text-align: right;">Page 153</p> <p>1 MR. BIRKHAUSER: 2 Q. On the next page, which is 3 CM00208285, there's a cover page for the Bremen, 4 Kentucky facility and that's followed by -- 5 we're going to be looking at CM00208285 and 86. 6 My first question to you is: Who prepares the 7 data that's on page 208286? 8 A. Each general manager is responsible 9 for his own report. 10 Q. And the general managers are 11 preparing the report to give to senior 12 management? 13 A. No. They -- they -- the areas are 14 designated such as this is a production area 15 report. There's also processing and might be 16 other areas for pullet growing, something else, 17 but then there's a comparison for this year's 18 numbers compared to the same period last year. 19 And so they give this report to everybody, the 20 other general managers and the senior 21 management. 22 Q. Why do the general managers prepare a 23 production comparison? 24 A. It's a requirement. It's a meeting 25 requirement.</p>

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<p style="text-align: right;">Page 154</p> <p>1 Q. What is the business purpose of the 2 production comparison? 3 A. Well, one of our long held philosophy 4 items is that we want to try to get better. So 5 no matter whether you're good or you're bad 6 today, the next report you want to be even 7 better than you were. You've got to continually 8 improve to be able to remain in the business in 9 this industry. So one is that, plus the other 10 is to -- another is to -- you're reporting 11 before everyone. If your report is not good, 12 well, you know, you have a lot of incentive to 13 fix it for next time because it's -- you're 14 having to tell everybody about it. It's kind of 15 -- you don't want it to be embarrassing to you 16 personally. You want to work hard and get your 17 numbers right. The competitive side, you want 18 to be the best. 19 I'm sure there are other things. 20 Those are the -- we report on -- mainly on items 21 that the general managers have control over, 22 which is the production, their production costs, 23 the things that they manage directly. Some 24 items of their P&L they don't control. They 25 don't set the price always for a sale or</p>	<p style="text-align: right;">Page 156</p> <p>1 and stay there. 2 Q. And you require them to be accurate 3 in their reporting? Do you expect them to be 4 accurate in their reporting? 5 A. Well, they get their numbers from 6 accounting, from their P&L's and their 7 performance reports. Those are accurate. And 8 then they get to discuss the discussion points 9 of their own about why it's like this. Some do 10 a better job of that than others. 11 Q. Okay. So on page 286, the Bremen, 12 Kentucky facility reports that the average 13 number of hens was down 89,210 due to the Animal 14 Welfare Guidelines and no more backfilling. Do 15 you see that? 16 A. Yes, I do. 17 Q. Do you believe that's accurate? 18 A. I believe it's accurate that that's 19 what he says, and that's certainly a part of 20 what's going on. 21 Q. When he says no more backfilling, 22 what does that mean? 23 A. For a period of time, we would refill 24 cages at molt, so the normal mortality that 25 occurred through every day, every week, up from</p>
<p style="text-align: right;">Page 155</p> <p>1 something like that. They just fill the orders. 2 Q. Do the general managers prepare the 3 production comparison to assist you in your job 4 as the vice president of operations in 5 overseeing a region? 6 A. Well, it helps a little, but, no, 7 it's done for them, for the whole company. 8 Q. And when they prepare the product or 9 production comparison, the information is being 10 shared with other officers of the company as 11 well, correct? 12 A. Well, this is presented in an open 13 meeting, and that meeting has the general 14 managers and other officers of the company and 15 other staff personnel of the company. 16 Q. Does Mr. Baker attend? 17 A. Absolutely. 18 Q. Okay. So the general managers -- 19 A. This is a lot of blocking and 20 tackling and attention to detail, and you have 21 to be very disciplined along that line to be 22 good at it. 23 Q. And you require your general managers 24 to pay attention to detail? 25 A. That's the only way they can be good</p>	<p style="text-align: right;">Page 157</p> <p>1 the housing up until molt time would be replaced 2 in some fashion. 3 Q. But the Animal Welfare Program at 4 some point prohibited backfilling; is that 5 correct? 6 MR. ROBISON: 7 Object to form. Mischaracterizes. 8 A. I think it did. You know, prior to 9 the Animal Welfare Program, we didn't backfill. 10 And after it started, we did try it as a company 11 and pretty much determined that it wasn't 12 something we wanted to continue, just because of 13 cost. You know, we could do it, but there was 14 not enough mortality. It was not -- you didn't 15 gain enough to justify all you spend doing it 16 and the management distraction of getting all 17 that done. So we had largely discontinued it in 18 the last couple of operations, did discontinue 19 with animal welfare deadline on that, the 20 committee deadline. 21 MR. BIRKHAEUSER: 22 Q. Okay. 23 A. If I might point out, there was 24 another real problem with all of that, too. 25 With the auditing and the cage -- the compliance</p>

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<p style="text-align: right;">Page 158</p> <p>1 with the cage counts and everything like that, 2 you had to be precise because auditors had a 3 random sample of cages to go check, and if your 4 numbers were not right on those cages, well, you 5 would fail for the house and for the farm and 6 for the company. And so with this program, 7 first time ever -- we would grow pullets for our 8 layer house, for example, and if I could use an 9 example of if a house held, oh, let's say 50,000 10 birds, well, you might put down an additional 5 11 percent baby chicks because there are going to 12 be some mortality during the grow period so that 13 you could move 50,000. Well, sometimes you had 14 48,000 there no matter what to move. And 15 sometimes you had a good grow out for some 16 reason and you might have 52,000 in there. Now, 17 you couldn't take the extra ones to the house 18 anyway because you would be out of compliance. 19 It's a 50,000 bird house at that point. So used 20 to those birds would wind up somewhere. And 21 that's kind of part of the justification for 22 some of the backfilling. Now, when you have a 23 good grow out, we kill them because it doesn't 24 fit the program and the program's intolerant. 25 Q. Filling the cage space limitations of</p>	<p style="text-align: right;">Page 160</p> <p>1 one wanted to insure that the facilities were 2 following. 3 A. Yes. And it's a part -- it's for 4 producer acceptance. The -- there's a definite 5 cost. Initially we thought it was six or seven 6 or eight cents more to be on the program. It is 7 not. Probably there were some benefits 8 unrecognized before we got into the program that 9 offset a little bit of that cost. But it's to 10 insure a laying playing field for all the 11 producers. If we're going to be in this -- if 12 we're going to sell animal welfare compliant 13 eggs, then you need to be on the program and 14 doing it right. You don't need to be out here 15 at some farm stuffing cages full. So it's 16 important to the support of the producer group 17 that this be an important audit item. 18 Q. If you can turn to Bates number 19 CM00208471. 20 MR. GREEN: 21 I'm sorry. Could you repeat that one 22 more time? 23 MR. BIRKHAEUSER: 24 Sure. I'll get closer. CM00208471. 25 Q. Again, this notes that the average</p>
<p style="text-align: right;">Page 159</p> <p>1 the Animal Welfare Program can cause you to fail 2 an audit, correct? 3 MR. ROBISON: 4 Object to the form. 5 A. Could you say that again, please? 6 MR. BIRKHAEUSER: 7 Q. I was responding to part of your 8 answer. Failing to pass an audit on the cage 9 space requirements can cause you to fail the 10 audit entirely. 11 MR. ROBISON: 12 Object to form. 13 A. Yes. 14 MR. BIRKHAEUSER: 15 Q. And then the company could lose its 16 certification, correct? 17 MR. ROBISON: 18 Objection. Mischaracterizes. 19 A. That's right. You would have an 20 opportunity to correct it. But if you chose not 21 to do that, well, you know, you could no longer 22 remain certified. 23 MR. BIRKHAEUSER: 24 Q. So that was one of the very important 25 requirements of the Animal Welfare Program that</p>	<p style="text-align: right;">Page 161</p> <p>1 number of birds was down 91,800 birds due to the 2 Animal Care Cage Reduction Program; is that 3 correct? 4 MR. ROBISON: 5 Objection. Incompleteness. 6 A. Yes. That's what it says. 7 MR. BIRKHAEUSER: 8 Q. Okay. 9 A. I think you also would note on there 10 they talk about their rate of lay is better than 11 before. Their feed conversion is better. So 12 there are improvements that help offset some of 13 the effects of fewer birds. And another thing 14 to keep in mind when comparing bird numbers from 15 time to time is that Cal-Maine routinely -- at 16 this time and before and now, Cal-Maine 17 routinely tries to maximize bird numbers in 18 production during peak demand times of the year 19 and then they try also to diminish bird numbers 20 and egg production during low demand times of 21 the year. And how this happens usually is they 22 decree to change back to -- instead of a normal 23 selling age, we'll do it so many weeks early or 24 something like that if you're trying to get on 25 the low end. This is a May report. This is for</p>

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<p style="text-align: right;">Page 162</p> <p>1 year-end around -- and so the hen count has to 2 do with May, and whether you have -- everybody 3 doesn't -- these locations don't get another 4 flock every week. Sometimes it's a month or two 5 months before they get another one, so whoever 6 falls in the gap sometimes to cut back where the 7 cutback hits the calendar on the cutoff such as 8 this, they might have fewer birds just due to 9 their overall reduction or they might have more 10 because of the way that works. I don't know if 11 I made myself clear. 12 Q. This is a six-month period that 13 they're talking about there, correct? 14 MR. ROBISON: 15 Object to the form. 16 Mischaracterizes. 17 A. That is correct. 18 MR. BIRKHAEUSER: 19 Q. May I have you turn to the page 20 entitled -- with the Bates number CM00208486 for 21 the -- how do you pronounce this complex? 22 A. Let me get there and I'll tell you. 23 Q. Okay. 24 A. Waelder. 25 Q. Waelder?</p>	<p style="text-align: right;">Page 164</p> <p>1 A. Yes. 2 Q. The very first sentence: "Dozens 3 processed and cases per week were down due to 4 the UEP reduction program and more down time 5 between flocks." 6 Is that -- 7 A. That's probably accurate. 8 Q. Okay. Great. 9 MR. ROBISON: 10 You don't have the sheets in here for 11 the rest of the locations? 12 MR. BIRKHAEUSER: 13 I do not. Let's take a short break, 14 and I need to get some water. 15 VIDEOGRAPHER: 16 One moment. We are now going off the 17 record. The time is 3:09 p.m. 18 (A recess was taken.) 19 (Discussion off the record.) 20 VIDEOGRAPHER: 21 We are now going back on the record. 22 The time is 3:10 p.m. 23 MR. ROBISON: 24 Just for the record, I want to object 25 to the use of Exhibit 89 without the rest of the</p>
<p style="text-align: right;">Page 163</p> <p>1 A. Waelder. 2 Q. For the Waelder Complex 1 and 2. 3 Under "Production" on page 208487, this facility 4 also notes that: "The average number of birds, 5 percent production, and dozens produced were all 6 down because of the way we operated this year 7 versus last." 8 Is that correct? 9 A. Right. And, for example, they're 10 pointing out more down time between flocks 11 instead of this year versus selling a flock and 12 replacing it with a 21-week old pullets within a 13 week, you know, sometimes you spread that down 14 time out. If the market's unprofitable, if 15 we're losing money, we do more of that. If it's 16 a period of time when we're making money, we try 17 to minimize that time period. And I believe in 18 '05 was not a profitable year, so it's very 19 likely that we had more down time between flocks 20 in general across the company. Now, how well 21 these guys may have evaluated it and how it 22 might have hit one farm as opposed to another, 23 all of that could be a variable. 24 Q. Can you turn to page CM00208489, 25 which is the last page of this exhibit?</p>	<p style="text-align: right;">Page 165</p> <p>1 pages, the rest of the locations at that time. 2 MR. BIRKHAEUSER: 3 If you would like to cross-examine 4 using other pages, you're more than welcome to 5 do so. 6 Q. I would like to switch to another 7 subject now which is the export of eggs. To 8 your knowledge, did the egg industry ever export 9 eggs to other countries? 10 A. Yes. Now, what do you mean the 11 industry? I can say that shell eggs were 12 exported to other countries. 13 Q. From the United States. 14 A. From the United States. 15 Q. Okay. Who arranged for the exports? 16 MR. ROBISON: 17 Object to form. Vague. 18 A. When? 19 MR. BIRKHAEUSER: 20 Q. Let's say in 2002. 21 MR. ROBISON: 22 Same objections. 23 A. Well, were there eggs exported in 24 2002? First off, there is some routine 25 exporting that goes on, like small eggs to</p>

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<p style="text-align: right;">Page 166</p> <p>1 Japan, medium eggs to Puerto Rico, things like 2 this, and that goes on routinely. This is shell 3 eggs. Most of the exporting that happens is 4 with egg products, dried product. Occasionally 5 there are exports that occur that are of larger 6 quantities of shell eggs. Usually when that's 7 done, with the exception of the last couple of 8 years, usually when that's done, it's done by 9 U.S. Egg Marketers, who is a group that has -- 10 can organize enough eggs to fill an order. The 11 members of U.S. Egg Marketers have to vote to 12 accept a deal when somebody figures one out to 13 see if we're going to fill it or not and if 14 that's acceptable to the buyer. The -- it's 15 often at the price required to be able to 16 complete an export for eggs going to the Middle 17 East or to Europe or places like that, often has 18 to be so low here that it's very difficult, 19 nobody wants to sell to export, even if they're 20 wanted over there because by the time you handle 21 the freight, the delivery and the distribution, 22 then it's too high a number for them. So the 23 only time that this ever happens is during a 24 time of oversupply which drives the market down, 25 usually to below cost of production number. And</p>	<p style="text-align: right;">Page 168</p> <p>1 to meet their needs. So there's been some down 2 there recently that's a little out of character. 3 MR. BIRKHAUSER: 4 Q. The question I originally asked was 5 who, what entity arranged the exports, and you 6 responded that USEM arranged for some of them. 7 What does USEM stand for? 8 MR. ROBISON: 9 Objection. 10 A. United States Egg Marketers. 11 MR. BIRKHAUSER: 12 Q. And where is the United States Egg 13 Marketers located? 14 A. Today? 15 Q. Today. 16 A. Today it's within United Egg 17 Producers. 18 Q. Okay. 19 A. Not originally. It's a co-op 20 Capper-Volstead co-op. 21 Q. Where was it located before it became 22 part of UEP? 23 MR. ROBISON: 24 Object to form. Foundation. 25 A. Geographically?</p>
<p style="text-align: right;">Page 167</p> <p>1 at that time when eggs get cheap, they can make 2 a deal to sell a few eggs to go for a shell egg 3 export. 4 Now, an exception to that would be 5 recently, if you want to talk about that, with 6 the Mexican -- a lot of eggs went to Mexico this 7 year, last year, year before. Mexico lost a 8 sizeable percentage of their laying hens to 9 disease and were unable to meet the needs of 10 their market. Eggs are a staple product for the 11 poor people in Mexico. It's a price control 12 item for them, so there was an effort to bring 13 in eggs to feed the people. 14 Now, part of that was done by 15 companies. We supply Walmart and they bought 16 eggs -- some eggs from us that were exported to 17 their -- to their stores in Mexico. The same 18 with HEB, another company we deal with, a 19 grocery company in Texas. But many more went 20 through a U.S. Egg Marketers export to some 21 entity down there close to the government, and 22 those eggs were distributed around the country 23 to fill the void, and they came at a high price. 24 We were not necessarily that long. They went 25 out at a high price, but they had to have them</p>	<p style="text-align: right;">Page 169</p> <p>1 MR. BIRKHAUSER: 2 Q. Uh-huh. 3 A. It was -- their offices were in 4 Atlanta. 5 Q. And were there ever exports that 6 you're aware of that were arranged for by the 7 UEP through USEM? 8 MR. ROBISON: 9 Objection. Form. 10 A. I don't know if it ever worked that 11 way. The membership of United Egg Producers are 12 not all members of United Egg Marketers. 13 MR. ROBISON: 14 You mean U.S. Egg Marketers? 15 A. Excuse me, United States Egg 16 Marketers. So it's a different group. And I 17 don't know that -- that UEP can, say, do an 18 export. 19 MR. BIRKHAUSER: 20 Q. Do you know if UEP ever requested 21 that USEM do an export? 22 A. No. My involvement with UEP is 23 primarily for the animal welfare committee. 24 Q. Did Cal-Maine participate in exports 25 that were arranged for by USEM?</p>

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<p style="text-align: right;">Page 170</p> <p>1 MR. ROBISON: 2 Objection. Form. Foundation. 3 A. Yes. We're a member of USEM. 4 MR. BIRKHAEUSER: 5 Q. Did Cal-Maine always participate in 6 USEM exports? 7 MR. ROBISON: 8 Same. 9 A. Well, they've just about always been 10 a member, so I would think so. 11 MR. BIRKHAEUSER: 12 Q. You don't know of any situation where 13 -- 14 A. Where they would not. 15 MR. ROBISON: 16 Same objections. 17 MR. BIRKHAEUSER: 18 Q. Let me just finish the question. 19 A. I'm not aware of any, no. 20 Q. You don't know of any situation where 21 USEM arranged for an export and Cal-Maine did 22 not participate? 23 MR. ROBISON: 24 Same. 25 A. No. You can check with Mr. Baker.</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. Have you had a chance to read Exhibit 2 90? 3 A. I have. 4 Q. Is this a true copy of a Cal-A-Gram 5 that you received on or about October 28th, 6 2002? 7 MR. ROBISON: 8 Objection. Assumes facts. 9 Foundation. 10 A. Seems -- yes, it seems fine to me. 11 MR. BIRKHAEUSER: 12 Q. Do you recall receiving Exhibit 90? 13 A. Not specifically, but I'm -- on every 14 export I've gotten one similar to this. 15 Q. Okay. And this describes an export 16 in October of 2002, correct? 17 A. Yes. That's what it refers to. 18 October 28th. 19 Q. And USEM is exporting stock eggs to 20 Europe, correct? 21 MR. ROBISON: 22 Objection. Mischaracterizes. 23 A. Exporting ungraded eggs. 24 MR. BIRKHAEUSER: 25 Q. And the total amount of the export is</p>
<p style="text-align: right;">Page 171</p> <p>1 He would know for sure. 2 MR. BIRKHAEUSER: 3 Q. So the export was intended to reduce 4 the supply of eggs in the U.S., correct? 5 MR. ROBISON: 6 Objection. Form. Foundation. 7 Mischaracterizes. 8 A. The exports generally are intended to 9 relieve the oversupply of eggs in the U.S. 10 MR. BIRKHAEUSER: 11 Q. Reduce the supply of eggs in the 12 U.S.? 13 MR. ROBISON: 14 All the same objections, plus 15 speculation and vague. 16 A. I prefer to say the oversupply. 17 MR. BIRKHAEUSER: 18 Q. Okay. 19 (Exhibit 90 marked.) 20 Q. While you're reading, for the record, 21 we've marked as Exhibit 90 a document bearing 22 the Bates stamp CM00415923 through 24. 23 VIDEOGRAPHER: 24 Seven minutes. 25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 173</p> <p>1 800 cases -- I'm sorry. The total amount of the 2 export is 47 loads, correct? 3 A. No. That's our share. 4 Q. I'm sorry. Total amount of the 5 export -- 6 A. I'm not sure it says here. 7 Q. I think you're right. Cal-Maine's 8 pro rata share is 47 loads and that would 9 consist of 800 cases each per load. 10 A. Uh-huh. Over some period of time. 11 Q. If you look on the second page of the 12 exhibit ending with the Bates number 24, we see 13 a shipping schedule for the USEM export, 14 correct? 15 A. Yes. I think so. 16 Q. And that shows that the export will 17 take place over a four-week time period. 18 A. Well, it shows a five-week period, 19 but we're within four weeks. It indicates a 20 five-week period for the overall program. 21 Q. I'm sorry. But the schedule shows 22 that Cal-Maine -- 23 A. Our schedule is within four weeks, 24 yes. 25 Q. Cal-Maine intends to accomplish the</p>

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<p style="text-align: right;">Page 174</p> <p>1 export order within four weeks.</p> <p>2 A. Yes, sir.</p> <p>3 Q. And then this shipping schedule shows</p> <p>4 how many eggs will come from each of the listed</p> <p>5 facilities at Cal-Maine.</p> <p>6 A. Yes. These are the ones that will be</p> <p>7 participating.</p> <p>8 Q. According to this e-mail, Cal-Maine</p> <p>9 will be paid 29.5 cents per dozen; is that</p> <p>10 correct?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form.</p> <p>13 A. Yes. This is for an ungraded egg,</p> <p>14 nestrun.</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 Q. Then in the fourth paragraph it says:</p> <p>17 "In order for your location not to be penalized,</p> <p>18 each location should bill the Company #40 the</p> <p>19 difference in the USEM invoice price and</p> <p>20 Cal-Maine's inter-company pricing for Class #1</p> <p>21 plus 6 cents per dozen."</p> <p>22 How would this prevent the location</p> <p>23 from being penalized?</p> <p>24 MR. ROBISON:</p> <p>25 Objection. Form. Foundation.</p>	<p style="text-align: right;">Page 176</p> <p>1 Okay. Why don't we go off the</p> <p>2 record.</p> <p>3 VIDEOGRAPHER:</p> <p>4 This is the end of tape number three</p> <p>5 of the deposition of Steve Storm. We are now</p> <p>6 going off the record. The time is 3:27 p.m.</p> <p>7 (A recess was taken.)</p> <p>8 VIDEOGRAPHER:</p> <p>9 This is the beginning of tape number</p> <p>10 four of the video deposition of Steve Storm. We</p> <p>11 are now going back on the record. The time is</p> <p>12 3:41 p.m.</p> <p>13 MR. BIRKHAEUSER:</p> <p>14 Q. Can you look at Exhibit 90 again just</p> <p>15 a minute?</p> <p>16 A. Yes.</p> <p>17 Q. Who's Matt Arrowsmith?</p> <p>18 A. He's a Cal-Maine employee. He's a</p> <p>19 vice president.</p> <p>20 Q. What area of responsibility?</p> <p>21 MR. ROBISON:</p> <p>22 Object to form. Vague.</p> <p>23 A. He's an egg trader. He handles longs</p> <p>24 and shorts for all of our companies and eggs.</p> <p>25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 175</p> <p>1 A. Well, the difference between this</p> <p>2 billing price that's established for USEM and</p> <p>3 our class, we have a -- routinely a trading</p> <p>4 price intercompany that would vary every week</p> <p>5 according to the market, so if there's a</p> <p>6 difference, they can bill the difference to</p> <p>7 Company 40 so we can see the cost of the export.</p> <p>8 Usually an export market might rise over the --</p> <p>9 at the beginning it's an okay deal, but by the</p> <p>10 end of it, if the market's gone up, it's a bad</p> <p>11 deal, so if you've got one or two or three</p> <p>12 locations doing this for our company, this is a</p> <p>13 way to not penalize those three in comparison to</p> <p>14 the rest of our locations.</p> <p>15 MR. BIRKHAEUSER:</p> <p>16 Q. So to the extent one of the</p> <p>17 facilities is not receiving the market price --</p> <p>18 A. Right.</p> <p>19 Q. -- then they won't be penalized if</p> <p>20 they use this accounting procedure.</p> <p>21 A. Right. To give them incentive to be</p> <p>22 fully cooperative and do what needs to be done.</p> <p>23 VIDEOGRAPHER:</p> <p>24 One minute.</p> <p>25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. What's his official title?</p> <p>2 A. He's a vice president.</p> <p>3 Q. Of?</p> <p>4 A. I'm not sure. Probably marketing.</p> <p>5 I'm not sure.</p> <p>6 Q. Okay. And who's Bill Marsh?</p> <p>7 A. Bill is an employee at one of the</p> <p>8 locations. I believe it's at Shady Dale. No,</p> <p>9 he was at Hartwell. That's who's missing here.</p> <p>10 Hartwell.</p> <p>11 Q. So Mr. Arrowsmith is writing to each</p> <p>12 of the general managers that appears on --</p> <p>13 A. Well, Christine Glover is not a</p> <p>14 manager. She's over the distribution at</p> <p>15 Louisburg. Bill Marsh was not the general</p> <p>16 manager, but a manager at Hartwell.</p> <p>17 Q. Were any of the facilities listed on</p> <p>18 the shipping schedule facilities that you were</p> <p>19 responsible for?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Vague.</p> <p>22 A. Yes. Probably I was responsible for</p> <p>23 Searcy, Arkansas at that time. These facilities</p> <p>24 were ones that handled nestrun eggs which was</p> <p>25 the type that was needed for the export. Many</p>

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<p style="text-align: right;">Page 178</p> <p>1 of our other facilities did not routinely handle 2 them. 3 MR. BIRKHAEUSER: 4 Q. Okay. Exhibit 91 is a United Voices 5 newsletter bearing the Bates stamp UE0135645 6 through 48. 7 (Exhibit 91 marked.) 8 Q. And I'm just going to ask you about 9 the first page, if you would review the 10 document, please. 11 A. (Witness complies.) 12 Q. I guess we don't know who authored 13 this specific article. 14 A. That would be Gene Gregory. 15 Q. Okay. Mr. Gregory, if he indeed did 16 write the "USEM Takes Large Export" article is 17 discussing the export that we saw in Exhibit 90, 18 correct? 19 MR. ROBISON: 20 Object to form. Foundation. Vague. 21 A. I think so. 22 MR. BIRKHAEUSER: 23 Q. It's an export starting in the week 24 of October 28th, 2002. 25 A. Right. Yeah. That's it.</p>	<p style="text-align: right;">Page 180</p> <p>1 14 cents per dozen in the Midwest and was 2 finally at profitable levels." 3 MR. ROBISON: 4 I was talking about the previous 5 paragraph and the next sentence, but you can go 6 ahead. It was just my objection. Skipping 7 around. 8 MR. BIRKHAEUSER: 9 Q. Do you recall the Urner Barry quote 10 going up 14 cents following the export that 11 Cal-Maine participated in? 12 MR. ROBISON: 13 Object to form. Foundation. 14 Speculation. Assumes facts. 15 A. You know, not specifically, however, 16 it's typical, and just because of what's said in 17 the next sentence from your last one, "The 18 export order was taken at fair market values and 19 not discounted." But the market moves up from 20 there. And so during the course of time that 21 you're filling that, you are -- if you look at 22 today's market every time you ship a load at a 23 confirmed low price, you're losing money. 24 MR. BIRKHAEUSER: 25 Q. Do you recall reading this on or</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Okay. To Europe. And Mr. Gregory 2 says that: "56 members of the United States Egg 3 Markets have done their part to help improve egg 4 prices by approving export of 250 containers." 5 Do you see that? 6 MR. ROBISON: 7 Object to form. 8 A. Are you talking about right here? 9 MR. BIRKHAEUSER: 10 Q. I'm talking about in the very first 11 paragraph. 12 A. Okay. Oh, yes. Right. I do see 13 that. 14 Q. And then in the third paragraph, Mr. 15 Gregory says: "Within one week from the 16 announcement of 190 of the total 250 loads being 17 negotiated, Urner Barry's large quote moved up 18 14 cents per dozen in the Midwest." 19 A. Yes. 20 MR. ROBISON: 21 Object to form. Completeness. 22 MR. BIRKHAEUSER: 23 Q. Okay. "Within one week from the 24 announcement of 190 of the total 250 loads being 25 negotiated, Urner Barry's large quote moved up</p>	<p style="text-align: right;">Page 181</p> <p>1 about the time the newsletter was issued, 2 November 4, 2004? 3 A. Most likely that I read it. I try to 4 read them all. 5 Q. Okay. 6 (Exhibit 92 marked.) 7 Q. The next document we're going to look 8 at is 92, and it's Bates number CM00415781 9 through 785. And I'll just tell you that this 10 is the way the document was produced, but I want 11 you, please, to look at the page that ends in 12 783. 13 A. Okay. 14 Q. Can you identify the handwriting in 15 the top right-hand corner? 16 A. It's probably Dolph Baker. 17 Q. And Steve -- 18 A. Might have been Ken. 19 Q. Ken Looper? 20 A. No. I would say that's Dolph Baker's 21 handwriting. I'd say him. 22 Q. And Steve? Who would Steve be? 23 A. That was most likely me. 24 Q. Do you recall receiving Exhibit 92 or 25 at least a letter dated February 7, 2003?</p>

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<p style="text-align: right;">Page 182</p> <p>1 MR. ROBISON:</p> <p>2 Object to form.</p> <p>3 A. Again, this is specifically -- I</p> <p>4 don't remember all of this, but it's typical.</p> <p>5 When an export comes out, this explains what our</p> <p>6 commitment is. And then we have to arrange it</p> <p>7 how we're going to handle it. And this is just</p> <p>8 communication to this group up here of exactly</p> <p>9 what's going on.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. This is just another example of</p> <p>12 Cal-Maine agreeing to an export that's being</p> <p>13 arranged by USEM.</p> <p>14 MR. ROBISON:</p> <p>15 Object to form. Vague. And</p> <p>16 mischaracterizes.</p> <p>17 A. Was there a question?</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. Yes. Is this another -- is this an</p> <p>20 example of Cal-Maine agreeing to an export</p> <p>21 that's being arranged for by USEM?</p> <p>22 A. It is an example.</p> <p>23 MR. ROBISON:</p> <p>24 Same.</p> <p>25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 184</p> <p>1 Object to form. Vague.</p> <p>2 A. Originally it was one location, one</p> <p>3 piece of property in Delta, Utah. There's a</p> <p>4 processing plant, 12 laying houses, 3 pullet</p> <p>5 houses and a feed mill on nearby property.</p> <p>6 MR. BIRKHAEUSER:</p> <p>7 Q. Did Cal-Maine ever acquire any</p> <p>8 interest in Delta Egg Farm?</p> <p>9 MR. ROBISON:</p> <p>10 Object to form.</p> <p>11 A. Yes, we did acquire interest.</p> <p>12 MR. BIRKHAEUSER:</p> <p>13 Q. When?</p> <p>14 MR. ROBISON:</p> <p>15 Object to form. Foundation.</p> <p>16 A. Early during the construction, during</p> <p>17 the construction time we were -- we invested in</p> <p>18 that, so that would have been probably, I'm</p> <p>19 going to guess, 1999.</p> <p>20 MR. BIRKHAEUSER:</p> <p>21 Q. So this was not an existing facility</p> <p>22 that was purchased, correct?</p> <p>23 A. No.</p> <p>24 MR. ROBISON:</p> <p>25 Well, no, it was not an existing</p>
<p style="text-align: right;">Page 183</p> <p>1 Q. And does Mr. Baker's signature appear</p> <p>2 on page CM00415784?</p> <p>3 A. It is.</p> <p>4 Q. Do you recognize his signature?</p> <p>5 A. Uh-huh.</p> <p>6 Q. Do you know how frequently Cal-Maine</p> <p>7 would participate in USEM exports?</p> <p>8 A. Well, we're a member of USEM, and if</p> <p>9 USEM as a group votes to accept the next board,</p> <p>10 then we're committed to participate is the best</p> <p>11 I can tell you.</p> <p>12 Q. Okay. I want to switch to a</p> <p>13 different area now. Have you heard of an entity</p> <p>14 called Delta Egg Farm?</p> <p>15 A. I have. Quite familiar with it.</p> <p>16 Q. Okay. When did Delta Egg Farm come</p> <p>17 into existence?</p> <p>18 MR. ROBISON:</p> <p>19 Object to the form. Foundation.</p> <p>20 A. Delta Egg Farm, the construction was</p> <p>21 completed in 2001.</p> <p>22 MR. BIRKHAEUSER:</p> <p>23 Q. And how many facilities? Did Delta</p> <p>24 Egg Farm only have one facility?</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 185</p> <p>1 facility?</p> <p>2 A. No. It was not an existing facility</p> <p>3 and, yes, it was purchased, our interest was</p> <p>4 purchased.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. And how was ownership held? How did</p> <p>7 Cal-Maine hold interest --</p> <p>8 A. What are the ways you can hold it?</p> <p>9 I'll try to tell you.</p> <p>10 Q. Was this a joint venture-ship?</p> <p>11 A. Originally it was owned by three</p> <p>12 parties. As a matter of fact, originally</p> <p>13 Cal-Maine was not a part of it. The original</p> <p>14 ownership for Delta Egg Farm was -- was -- well,</p> <p>15 do you want to know who they all were or do you</p> <p>16 care?</p> <p>17 Q. Please.</p> <p>18 A. Dick Latta, who was a builder, who</p> <p>19 built the farm, and Peter Olson, who's from the</p> <p>20 Olson family of California. They're a long-time</p> <p>21 dominant player in eggs in California. And a</p> <p>22 grain company, Continental Grain. They had just</p> <p>23 started the project and Continental Grain</p> <p>24 discovered they were about bankrupt and were</p> <p>25 being sold and they got out of the project, so</p>

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<p style="text-align: right;">Page 186</p> <p>1 it was -- and Latta and Olson needed somebody to</p> <p>2 step in and be a partner, and that's when</p> <p>3 Cal-Maine joined that project.</p> <p>4 Q. So when Cal-Maine joined the project,</p> <p>5 who were its partners?</p> <p>6 A. Peter Olson and Dick Latta, as it</p> <p>7 turns out, through one of his entities, a farm</p> <p>8 he's got in Iowa held the actual ownership.</p> <p>9 Q. Did Moark ever acquire any interest</p> <p>10 in Delta Egg Farm?</p> <p>11 A. Yes.</p> <p>12 Q. And when did that happen?</p> <p>13 A. Well, I might tell you the next thing</p> <p>14 that happened was that Peter Olson dropped dead</p> <p>15 and the terms of the agreement were that the</p> <p>16 existing partners bought out the estate so that</p> <p>17 there were only two partners. And at a later</p> <p>18 time, Dick Latta wanted to get out, and he sold</p> <p>19 his Clearfield -- is it Clearfield, Iowa? His</p> <p>20 Iowa -- Sunbest Iowa operation is the name of</p> <p>21 it. That was to Moark who was buying up egg</p> <p>22 operations at that time, and they also were the</p> <p>23 holder of the stock of 50 percent of Delta and</p> <p>24 that's how Moark became involved.</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 188</p> <p>1 Q. Okay. Did Moark and Cal-Maine ever</p> <p>2 hold the property jointly with any other third</p> <p>3 party?</p> <p>4 A. No. Just each a 50 percent owner.</p> <p>5 Q. So when Moark purchased its interest,</p> <p>6 Cal-Maine and Moark became 50 percent joint</p> <p>7 venturers.</p> <p>8 A. Yes.</p> <p>9 Q. What was the purpose of the joint</p> <p>10 venture from Cal-Maine's perspective?</p> <p>11 MR. ROBISON:</p> <p>12 Object to form. Foundation.</p> <p>13 A. It was a way to expand into the --</p> <p>14 looking at the West Coast market was what I took</p> <p>15 it to be. A more suitable question for Mr.</p> <p>16 Baker.</p> <p>17 MR. BIRKHAEUSER:</p> <p>18 Q. Okay. Did you hold a position with</p> <p>19 respect to Delta Egg Farm?</p> <p>20 A. Yes.</p> <p>21 Q. And what was your position?</p> <p>22 A. I was an operating VP for the</p> <p>23 company, for that LLC. Cal-Maine ran the</p> <p>24 operation and we operated it as if it were -- as</p> <p>25 if it were a Cal-Maine location.</p>
<p style="text-align: right;">Page 187</p> <p>1 So Sunbest Iowa was a holder of 50</p> <p>2 percent and then Moark bought that?</p> <p>3 A. Yes.</p> <p>4 MR. ROBISON:</p> <p>5 Okay. I wanted to make sure it was</p> <p>6 clear.</p> <p>7 MR. BIRKHAEUSER:</p> <p>8 Q. When did Moark purchase an interest</p> <p>9 from Sun --</p> <p>10 A. From Latta through -- via Sunbest,</p> <p>11 but Latta.</p> <p>12 Q. Okay. When did Moark purchase its</p> <p>13 interest from Latta?</p> <p>14 A. I'm hard pressed to give you a date</p> <p>15 exactly. I'm not sure.</p> <p>16 Q. Approximately.</p> <p>17 A. I'm going to say maybe '3 or '4 --</p> <p>18 2003, '4, '5, somewhere in there.</p> <p>19 Q. At some point in time -- so was there</p> <p>20 a point in time when there were three owners,</p> <p>21 Latta -- I'm sorry, Olson, Moark, and Cal-Maine?</p> <p>22 MR. ROBISON:</p> <p>23 Object to form.</p> <p>24 A. No. Not that three.</p> <p>25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Did Moark have duties with respect to</p> <p>2 the management of Delta Egg?</p> <p>3 A. No. They had -- they had input.</p> <p>4 They had no regular duties. I think actual</p> <p>5 setup was that there's a -- that there was a --</p> <p>6 with Latta and then with Moark that there was a</p> <p>7 management committee to oversee the operations</p> <p>8 of the farm but that I was on that committee for</p> <p>9 Cal-Maine and I also had the responsibility of</p> <p>10 the farm and those employees reported to me.</p> <p>11 Well, the general manager did. Just the same as</p> <p>12 one of our other locations.</p> <p>13 Q. So as the VP of operations of</p> <p>14 Cal-Maine, you treated Delta Egg as you would --</p> <p>15 A. Much the same.</p> <p>16 Q. -- as you would another facility?</p> <p>17 A. Correct.</p> <p>18 Q. Did Moark appoint a manager for Delta</p> <p>19 Egg?</p> <p>20 MR. ROBISON:</p> <p>21 Object to form. Foundation.</p> <p>22 A. No, before it was -- at some point</p> <p>23 along the way, I ceased to be involved with that</p> <p>24 operation and Sherman Miller stepped in and he</p> <p>25 was the vice president that was -- held a</p>

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<p style="text-align: right;">Page 190</p> <p>1 similar role and to whom the Delta managers 2 reported. And that was done for the last, oh, 3 four years or five years, something like that, 4 six years maybe. But prior to that, it was to 5 me, and, no, I don't remember them doing that. 6 But different -- it was always an open door. If 7 they had a -- they had salespeople at one time 8 that wanted to come up and be involved and find 9 out what was going on or production people or so 10 on, we hosted them, welcomed them up as part 11 owner. They had full ownership -- I mean, they 12 had the right to be there, to see it. 13 MR. BIRKHAEUSER: 14 Q. Who's Mr. Sherman Miller? 15 A. He currently is the chief operating 16 officer for Cal-Maine. He's a vice president. 17 He was an operating VP for some period of time 18 over some facilities to include Delta. 19 Q. And when he assumed his role with 20 respect to Delta, you stopped -- 21 A. Turned it over to him. 22 Q. Okay. And what year was that 23 approximately? 24 A. I'm going to say five to six years 25 ago, so 2007 or '8. That was going to be my</p>	<p style="text-align: right;">Page 192</p> <p>1 guy, let me pull his name, Brown, I think, and 2 who was over southern California. And at 3 various times we hosted one of them, and there 4 were annual meetings for the LLC that one or 5 some of those guys came to. 6 MR. BIRKHAEUSER: 7 Q. Where were the annual meetings held? 8 MR. ROBISON: 9 Objection. Form. 10 A. Typically Delta or Salt Lake City. 11 One was in -- that I recall was in Las Vegas 12 during a meeting there. 13 MR. BIRKHAEUSER: 14 Q. You said when Cal-Maine first became 15 interested in Delta Egg, it was under 16 construction. When was the construction 17 completed? 18 A. 2001. 19 Q. And did it start producing in 2001? 20 A. No. It phased in over months. It 21 was completed, full production, sometime during 22 2001. 23 Q. Okay. Did the nature of the business 24 change at all when Moark became a participant? 25 MR. ROBISON:</p>
<p style="text-align: right;">Page 191</p> <p>1 guess. 2 Q. And while you had responsibility for 3 Delta Egg, did you interface with any Moark 4 employees about the operations of Delta Egg? 5 A. Yes. More so when it was -- when it 6 was Latta. Then he had an employee that was 7 sort of over some of his Iowa interests and 8 others that had an interest in what was going on 9 with Delta, and he and I were -- routinely would 10 review what was happening at Delta. When Moark 11 became involved, they didn't seem to be as 12 interested in all of that, so I don't recall 13 except on occasions when something would come up 14 that they would want to be interested, but not 15 routinely. 16 Q. Was there a particular employee of 17 Moark that you would interface with with respect 18 to Delta Egg? 19 MR. ROBISON: 20 Object to form. Vague. 21 A. None on an ongoing basis. We had -- 22 we had some interface with Craig Willardson who 23 was over that division and then over the 24 company, with Mark Campbell who was in sales for 25 southern California, with Dan -- the production</p>	<p style="text-align: right;">Page 193</p> <p>1 Object to form. Vague. 2 A. Mark Campbell? Did you say Mark? 3 MR. BIRKHAEUSER: 4 Q. No. I said when Moark became a 5 participant. 6 MR. ROBISON: 7 Same objection. 8 A. A little. We were able to -- as 9 50/50 partners, we were able to divide the eggs. 10 Each party had sales responsibility for half the 11 eggs. Each owner. 12 MR. BIRKHAEUSER: 13 Q. So Cal-Maine was responsible for 14 selling half the eggs produced by Delta Egg 15 after Moark became its partner in that venture? 16 A. Right. 17 Q. And Moark was responsible for selling 18 half of the eggs. 19 A. Right. 20 Q. Where were the eggs sold? 21 A. Cal-Maine sold their half primarily 22 to Walmart in Corinne, Utah. 23 Q. And do you know where Moark sold its 24 eggs that emanated from Delta Egg? 25 A. Moark took delivery on their eggs,</p>

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<p style="text-align: right;">Page 194</p> <p>1 either picked them up or had them delivered to 2 Southern California, either Norco or one of the 3 farms in southern California. Prior to Moark's 4 involvement, some of them were sold to Hickman 5 Farms in Arizona. 6 (Exhibit 93 marked.) 7 Q. Can you tell me when you've had a 8 chance to review Exhibit 93? 9 MR. BIRKHAEUSER: 10 I should tell the people on the 11 phone, Exhibit 93 bears the Bates stamp 12 MOARK0018130 through 131. 13 A. Okay. 14 Q. Who is Mr. Hodges? 15 A. He was a salesperson for Moark. 16 Q. And did you interface with Mr. Hodges 17 from time to time with respect to Delta Egg? 18 A. A few times. 19 Q. Was Mr. Hodges responsible for 20 Moark's share of the eggs produced by Delta Egg? 21 MR. ROBISON: 22 Object to form. Foundation. 23 A. I don't think we could ever nail it 24 down that well with them. 25 MR. BIRKHAEUSER:</p>	<p style="text-align: right;">Page 196</p> <p>1 we would begin to sell more when they would want 2 them, but they are never comfortable -- well, 3 the people that seem -- that were making 4 decisions regarding Delta weren't comfortable 5 with the fact that they owned half of it because 6 they wanted to buy -- transfer eggs from Delta 7 to them as if they were coming from Iowa because 8 they bought other eggs from Iowa. And I'm 9 pretty sure we always sold them eggs based on 10 the South Central market, not on the Midwest 11 market. And -- and that -- and we always sold 12 eggs the same to both owners. But they had -- 13 they sold a lot of eggs in southern California. 14 Had the ability to move any surplus. Any 15 surplus that Delta might have would be 16 insignificant. They could take it immediately. 17 But they were concerned about, well, this is 18 priced too high when if you lowered the price 19 and sold it, that just means the profitability 20 that you split at some point in time was less to 21 them. I mean, it's no different. And so it 22 just -- we just found difficulty in working 23 together on how to -- how to do all that. 24 MR. BIRKHAEUSER: 25 Q. Because Moark was selling to a</p>
<p style="text-align: right;">Page 195</p> <p>1 Q. As a matter of practice, did both 2 parties actually sell approximately half of the 3 eggs from Delta Egg Farm? 4 MR. ROBISON: 5 Object to form. Vague. 6 A. As a matter of practice, Cal-Maine 7 probably sold a little more than half over 8 several of the years. 9 MR. BIRKHAEUSER: 10 Q. And how was that accounted for by the 11 joint venture? 12 MR. ROBISON: 13 Objection. Form. Foundation. 14 A. I'm not sure how. The eggs that -- 15 the eggs that we sold were transferred to us on 16 the agreed-upon price, and the ones that they 17 sold were transferred to them on the same 18 pricing basis. I might say that I don't think 19 this is -- he indicates some pricing back in 20 here, and I don't believe that's accurate. I 21 don't doubt it's what he wanted. It's just not 22 accurate. We spent a year learning how to get 23 along with each, I guess, between Cal-Maine and 24 Moark because they would not always take all 25 their eggs in the beginning, and then later on</p>	<p style="text-align: right;">Page 197</p> <p>1 different market. 2 A. Just confusion. 3 Q. Did Cal-Maine eventually acquire 4 Moark's interest in Delta Egg? 5 A. Yes. During this year. Not long 6 ago. 7 Q. So Cal-Maine and Moark were partners 8 up until this year. 9 A. Correct. 10 Q. Moark seems to be divesting of their 11 interest in the egg business or Moark has been 12 divested by Land O'Lakes, their parent. 13 (Exhibit 94 marked.) 14 Q. The next document that we are marking 15 is CM00279023 through 4. 16 MR. ROBISON: 17 Exhibit 94. 18 MR. BIRKHAEUSER: 19 And it's Exhibit 94. 20 Q. Have you had a chance to review 21 Exhibit 94? 22 A. Yes. 23 Q. Is it a true copy of an e-mail that 24 you received on or about July 7, 2006? 25 MR. ROBISON:</p>

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<p style="text-align: right;">Page 198</p> <p>1 Object to form.</p> <p>2 A. It appears so. I don't recall it,</p> <p>3 but it must be. I'm on there. I work closely</p> <p>4 with Dan Hudgens who wrote it.</p> <p>5 MR. BIRKHAEUSER:</p> <p>6 Q. And who is Mr. Hudgens?</p> <p>7 A. Pardon me?</p> <p>8 Q. Who is Mr. Hudgens?</p> <p>9 A. He's -- he worked for Dick Latta, and</p> <p>10 then subsequently he worked for Moark for a</p> <p>11 while.</p> <p>12 Q. And where was Mr. Hudgens officed?</p> <p>13 A. At this time it would have been in</p> <p>14 Neosho, Missouri. Prior to that he was in</p> <p>15 Colorado.</p> <p>16 Q. Do you know Ken P-a-u-z-e?</p> <p>17 A. No, I don't think I do. I might know</p> <p>18 him, but I don't know him well. I might have</p> <p>19 met him.</p> <p>20 Q. Mr. P-a-u-z-e sets forth in the body</p> <p>21 of the e-mail certain figures regarding Moark</p> <p>22 and JV net birds in lay. Did Mr. Pauze have any</p> <p>23 responsibilities as far as you know with the</p> <p>24 day-to-day operations of Delta Egg?</p> <p>25 MR. ROBISON:</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. Does --</p> <p>2 A. Must mean something to them at Moark.</p> <p>3 Q. Did the joint venture have</p> <p>4 approximately 8 million total layers in July of</p> <p>5 2006?</p> <p>6 MR. ROBISON:</p> <p>7 Object to form. No foundation.</p> <p>8 Speculation.</p> <p>9 A. No.</p> <p>10 MR. BIRKHAEUSER:</p> <p>11 Q. How many layers did Delta Egg have in</p> <p>12 July of 2006?</p> <p>13 MR. ROBISON:</p> <p>14 Same.</p> <p>15 A. Their capacity was 1.5 million, less</p> <p>16 any reduction for animal welfare, less normal</p> <p>17 animal mortality.</p> <p>18 MR. BIRKHAEUSER:</p> <p>19 Q. In 2006?</p> <p>20 MR. ROBISON:</p> <p>21 Same objections.</p> <p>22 A. (Witness nodding head.) So I don't</p> <p>23 understand the 8 million. I don't know what it</p> <p>24 means.</p> <p>25 MR. BIRKHAEUSER:</p>
<p style="text-align: right;">Page 199</p> <p>1 Objection.</p> <p>2 A. No. Not that I know about.</p> <p>3 MR. BIRKHAEUSER:</p> <p>4 Q. Did Delta Egg report its figures to</p> <p>5 -- its production figures to Cal-Maine and to</p> <p>6 Moark?</p> <p>7 A. Certainly.</p> <p>8 Q. And how frequently?</p> <p>9 A. Some things weekly, some things</p> <p>10 monthly, but, yes, routinely.</p> <p>11 Q. On the next page, CM00279024, there's</p> <p>12 a summary data for the week ending July 1st,</p> <p>13 2006, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And what does that table show?</p> <p>16 A. I don't fully understand it. This is</p> <p>17 not a chart that I'm familiar with. I don't</p> <p>18 know. I mean, it appears to talk about Moark in</p> <p>19 total and then JV which probably means Delta, at</p> <p>20 least part of it would be Delta, and Moark and</p> <p>21 JV seems to be the sum of those two, and Moark</p> <p>22 and JV, 50 percent, that seems to indicate</p> <p>23 Delta, but where it says total layers over 8</p> <p>24 million, I don't get it. I mean, I don't know</p> <p>25 exactly what this is.</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. Well, in the first box it's entitled</p> <p>2 "Moark" and "Total #" and "Percent of Total</p> <p>3 Flock" and then "Change from Previous Week."</p> <p>4 Did Moark have 12 million total layers --</p> <p>5 MR. ROBISON:</p> <p>6 Objection. No foundation.</p> <p>7 Speculation.</p> <p>8 MR. BIRKHAEUSER:</p> <p>9 Q. -- in July of 2006?</p> <p>10 MR. ROBISON:</p> <p>11 Same.</p> <p>12 A. I could not speak with authority on</p> <p>13 that. I don't know.</p> <p>14 MR. BIRKHAEUSER:</p> <p>15 Q. On the first page of Exhibit 94, Mr.</p> <p>16 P-a-u-z-e says that there are 297k birds</p> <p>17 scheduled to come out of molt w/e 7-08. Does</p> <p>18 that appear to characterize the molt schedule of</p> <p>19 Delta Egg?</p> <p>20 MR. ROBISON:</p> <p>21 Objection. Form. Speculation.</p> <p>22 Foundation.</p> <p>23 A. I don't know exactly when they would</p> <p>24 have -- I mean, this is timing. I don't know</p> <p>25 exactly when they would have molted back then.</p>

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<p style="text-align: right;">Page 202</p> <p>1 MR. BIRKHAUSER:</p> <p>2 Q. Would the number of birds be</p> <p>3 approximately correct given the number of total</p> <p>4 birds that Delta Egg had at that time period?</p> <p>5 MR. ROBISON:</p> <p>6 Same objection.</p> <p>7 A. Where is the number you're looking</p> <p>8 at?</p> <p>9 MR. BIRKHAUSER:</p> <p>10 Q. 297k.</p> <p>11 MR. ROBISON:</p> <p>12 Same objection.</p> <p>13 A. You know, I think all of that is</p> <p>14 referring to the combination of Moark and JV,</p> <p>15 whoever JV is. I really don't know, so I cannot</p> <p>16 answer.</p> <p>17 MR. BIRKHAUSER:</p> <p>18 Q. Do you recall responding to this</p> <p>19 e-mail in any way?</p> <p>20 A. No. How could you respond to this?</p> <p>21 Do you have my response or something?</p> <p>22 Q. No. Are you familiar with an entity</p> <p>23 called South Central Egg Producers, LLC?</p> <p>24 A. Vaguely.</p> <p>25 Q. And what is South Central Egg</p>	<p style="text-align: right;">Page 204</p> <p>1 area. Kansas. Kansas is in there.</p> <p>2 MR. BIRKHAUSER:</p> <p>3 Q. Do you know when it was formed?</p> <p>4 A. Not for sure, but within the last</p> <p>5 probably three years, four years.</p> <p>6 Q. Is there anyone else at Cal-Maine,</p> <p>7 besides Mr. Baker, that's been involved in --</p> <p>8 involved with South Central Egg Producers?</p> <p>9 MR. ROBISON:</p> <p>10 Object to form. Vague. Foundation.</p> <p>11 A. I don't know. It's essentially a</p> <p>12 loose organization that agrees to trade longs</p> <p>13 and shorts, and I don't know much more than</p> <p>14 that.</p> <p>15 MR. BIRKHAUSER:</p> <p>16 Q. Okay. Does Cal-Maine have any</p> <p>17 antitrust compliance training for its employees?</p> <p>18 MR. ROBISON:</p> <p>19 Objection. Form. Foundation.</p> <p>20 Speculation. Vague.</p> <p>21 A. In, like, classes or that sort of</p> <p>22 thing?</p> <p>23 MR. BIRKHAUSER:</p> <p>24 Q. Yes.</p> <p>25 A. I don't think we've had any classes.</p>
<p style="text-align: right;">Page 203</p> <p>1 Producers, LLC?</p> <p>2 MR. ROBISON:</p> <p>3 Objection. Form. Foundation.</p> <p>4 A. To my knowledge, it's a co-op of egg</p> <p>5 producers in the South Central marketing area,</p> <p>6 which is primarily Texas and maybe Oklahoma,</p> <p>7 Arkansas. I'm not sure. Cal-Maine's a part of</p> <p>8 it. I can't really tell you much more.</p> <p>9 MR. BIRKHAUSER:</p> <p>10 Q. Do you know how Cal-Maine is involved</p> <p>11 in South Central Egg Producers?</p> <p>12 MR. ROBISON:</p> <p>13 Same objections. Form. Foundation.</p> <p>14 A. I think they're a member.</p> <p>15 MR. BIRKHAUSER:</p> <p>16 Q. Who at Cal-Maine knows the most about</p> <p>17 South Central?</p> <p>18 A. Mr. Baker.</p> <p>19 Q. Do you know what region it covers?</p> <p>20 A. South Central.</p> <p>21 Q. Which is?</p> <p>22 MR. ROBISON:</p> <p>23 Asked and answered.</p> <p>24 A. Well, to us it's Louisiana, Texas,</p> <p>25 Arkansas, Oklahoma, Mexico. That's a marketing</p>	<p style="text-align: right;">Page 205</p> <p>1 I'll have to check with our counsel.</p> <p>2 COURT REPORTER:</p> <p>3 Check what?</p> <p>4 A. With our counsel.</p> <p>5 MR. BIRKHAUSER:</p> <p>6 Q. Have you personally attended any</p> <p>7 classes?</p> <p>8 A. No, except that it's an issue at</p> <p>9 every industry meeting that you be aware of and</p> <p>10 make sure that your discussions are held within</p> <p>11 legal territory.</p> <p>12 Q. And this is something that -- well,</p> <p>13 at what meetings is antitrust compliance</p> <p>14 discussed?</p> <p>15 A. Well, I'm a member of the Arkansas</p> <p>16 Poultry Federation which is primarily the</p> <p>17 broiler people, and the first item on the agenda</p> <p>18 every meeting is they go over the brochure for</p> <p>19 antitrust compliance. And Randon Wilson, who is</p> <p>20 the new counsel for United Egg Producers, he</p> <p>21 covers items such as that from time to time.</p> <p>22 But those are examples.</p> <p>23 Q. As far as you know, there's no</p> <p>24 Cal-Maine training that's specifically given to</p> <p>25 its employees.</p>

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<p style="text-align: right;">Page 206</p> <p>1 A. No. I don't have a certificate. 2 Q. Okay. Is there other training that 3 Cal-Maine does for its executive officers? 4 A. No. Other training would probably 5 have to do -- probably going a little bit lower 6 levels, that would have to do with items, maybe 7 safety and food safety and HACCP plans and just 8 different things like that. Just recognition 9 for having achieved a competency in some 10 particular areas like that. 11 Q. And for facility staff as well? 12 A. Well, some management at facility 13 level, yes. 14 MR. BIRKHAEUSER: 15 Okay. Thank you. I'm done with my 16 questioning as far as your individual deposition 17 is concerned. 18 MR. ROBISON: 19 Any questions from the phone? No 20 questions. We'll reserve for trial. We'll sign 21 and return and we'll be -- 22 MS. HANSON: 23 I have a really brief line of 24 questioning. This is Amy Hanson on behalf of 25 the direct purchaser plaintiffs. Very brief.</p>	<p style="text-align: right;">Page 208</p> <p>1 sign all of the agreements, but I believe all of 2 our supply agreements with customers to the 3 major grocers include that phrase that we are -- 4 we be animal welfare compliant, UEP program. 5 Q. And which customers were those? 6 A. Such as HEB, Safeway, Publix, and I 7 believe -- we don't do a whole lot, but some 8 with Kroger, and I think with Kroger. I'm not 9 as positive on that. With Sysco. 10 Q. Anyone else? 11 A. Not off the top of my head, no, 12 ma'am. 13 Q. And when would you have seen this 14 customer specification as to Walmart? 15 A. Well, the specifications contain many 16 things, like what are the requirements of the 17 pack and so on and so forth, so, you know, these 18 are held at plant level for those that are 19 supplying those customers, and we pack Walmart 20 product in probably, you know, 20 plants. 21 Q. So when would you have seen Walmart's 22 customer specification that required compliance 23 with the 2002 Animal Care guidelines? 24 A. When they introduced that at that 25 point in time.</p>
<p style="text-align: right;">Page 207</p> <p>1 CROSS-EXAMINATION 2 BY MS. HANSON: 3 Q. Mr. Storm, my name is Amy Hanson, and 4 I represent the direct purchaser plaintiffs in 5 this action. And I have a quick line of 6 questioning about your previous testimony that 7 you saw a customer specification that required 8 compliance with the UEP 2002 Animal Care 9 guidelines. Do you remember that testimony? 10 A. Would you say that one more time? 11 It's a little unclear. 12 Q. Sure. Do you remember testifying 13 earlier today that you saw a customer 14 specification that required compliance with the 15 UEP's 2002 Animal Care guidelines? 16 A. Yes. 17 Q. And that customer was Walmart; is 18 that correct? 19 A. That was the first one I saw, and 20 that's the one I remember explicitly. 21 Q. Do you remember any other customers 22 in which you saw their specification that 23 required compliance with UEP's Animal Care 24 guidelines? 25 A. You know, I don't routinely see or</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Would that have been in 2002? 2 A. To my knowledge, yes. 3 Q. Did you see any Walmart customer 4 specification that required compliance of the 5 2002 Animal Care guideline after 2002? 6 A. It's still in there today. 7 Q. And with respect to the HEB customer 8 specification that you saw, when did you see 9 that customer specification that required 10 compliance with the HEB 2002 Animal Care 11 guidelines? 12 A. Which one? Who did you say? 13 MR. ROBISON: 14 HEB. 15 A. HEB? 16 MS. HANSON: 17 Q. HEB. 18 A. I don't recall actually seeing HEB's 19 specs. That's not as widespread. It's only in 20 south Texas, and I don't recall actually seeing 21 that, but it's in there. 22 Q. With respect to Safeway customer 23 specification that required compliance with 24 UEP's 2002 Animal Care guideline, when did you 25 see that?</p>

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<p style="text-align: right;">Page 210</p> <p>1 A. Well, I don't think they necessarily 2 say the 2002 Animal Care. They just say the UEP 3 Animal Care program, certified program. And I 4 think we've just renewed a contract within the 5 past month or thereabouts that contains that 6 requirement as well as a different Animal Care 7 certification for cage free birds that's not 8 UEP. It's the HFAC requirement. 9 Q. With respect to the Publix customer 10 specification that required compliance with the 11 UEP 2002 Animal Care guidelines, when did you 12 see that? 13 MR. ROBISON: 14 Objection. Form. Mischaracterizes 15 testimony. Go ahead. When did you see the 16 Publix specs that required compliance? 17 A. I don't know that I've actually seen 18 it. I know that it's required. 19 MR. ROBISON: 20 Of course it is. 21 MS. HANSON: 22 Q. With respect to the Kroger customer 23 specification that requires compliance with the 24 UEP's 2002 Animal Care guidelines, when did you 25 see that?</p>	<p style="text-align: right;">Page 212</p> <p>1 Kroger required compliance with UEP's 2002 2 Animal Care guidelines? 3 MR. ROBISON: 4 Objection. It mischaracterized his 5 testimony and now it's asked and answered. Go 6 ahead and answer it again. 7 A. I don't -- I can't give you a date. 8 I don't really know. It's just known within our 9 company. 10 MS. HANSON: 11 Q. Is it fair to say that you have not 12 seen Kroger's specification that requires 13 compliance with UEP's 2002 Animal Care 14 guidelines? 15 MR. ROBISON: 16 Same objections. 17 A. It's fair to say -- and you keep 18 saying the 2002 Animal Care guidelines. It's 19 now called the UEP Certified program, I think, 20 and that's what's in all of the requirements. 21 And I've not seen that. I have not seen the 22 actual document under which we agree to do 23 business. 24 MS. HANSON: 25 Q. Is it fair to say that the only</p>
<p style="text-align: right;">Page 211</p> <p>1 MR. ROBISON: 2 Same objections. Mischaracterizes. 3 A. I'm not as certain about Kroger, but 4 I'm fairly certain. And I have not visually -- 5 I have not read that. 6 MS. HANSON: 7 Q. So you're not certain that you saw a 8 Kroger specification that required compliance 9 with the UEP's 2002 Animal Care guidelines? 10 A. I think I can say that I'm certain 11 that I did not read Kroger's pricing agreement, 12 but I'm as equally certain that it's required 13 that we be Animal Care certified through the UEP 14 program in order to supply them eggs. 15 Q. And when did you gain that certainty? 16 A. I can't really tell you when. 17 MR. ROBISON: 18 Every day for the last 12 years? I 19 mean -- 20 A. It's just a requirement of doing 21 business. 22 MS. HANSON: 23 You'll get an opportunity to question 24 him. 25 Q. When did you gain your certainty that</p>	<p style="text-align: right;">Page 213</p> <p>1 customer specification that you have seen with a 2 requirement regarding Animal Care guidelines of 3 the UEP was Walmart? 4 A. That's fair. I have seen that. 5 MS. HANSON: 6 No more questions. 7 MR. ROBISON: 8 Now we're done. Right? Right. 9 Okay. Finished. Off the record. 10 VIDEOGRAPHER: 11 One moment, please. This concludes 12 the videotape deposition of Steve Storm 13 consisting of four tapes. We are now going off 14 the record. The time is 4:42 p.m. 15 MR. ROBISON: 16 Mark it all highly confidential. 17 (Deposition concluded at 4:42 p.m.) 18 19 20 21 22 23 24 25</p>

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1 CERTIFICATE OF COURT REPORTER
 2 I, CELESTE O. WERKHEISER, Registered Merit
 3 Reporter and Notary Public, in and for the
 4 County of Hinds, State of Mississippi, hereby
 5 certify that the foregoing pages contain a true
 6 and correct transcript of the testimony of the
 7 witness, as taken by me at the time and place
 8 heretofore stated, and later reduced to
 9 typewritten form by computer-aided transcription
 10 under my supervision, to the best of my skill
 11 and ability.

12 I further certify that I placed the witness
 13 under oath to truthfully answer all questions in
 14 this matter under the authority vested in me by
 15 the State of Mississippi.

16 I further certify that I am not in the
 17 employ of, or related to, any counsel or party
 18 in this matter, and have no interest, monetary
 19 or otherwise, in the final outcome of the
 20 proceedings.

21 Witness my signature and seal, this the 5th
 22 day of May, 2014.

23
 24

25 Celeste O. Werkheiser, RMR, CSR #1307
 My Commission Expires May 6, 2015

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1 ACKNOWLEDGMENT OF DEPONENT
 2 I, STEVE STORM, do hereby certify
 3 that I have read the foregoing transcript of my
 4 testimony taken on 4/24/14, and further certify
 5 that it is a true and accurate record of my
 6 testimony (with the exception of the corrections
 7 listed below):

8	Page	Line	Correction
9			
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11			
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15			
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17			
18			
19			
20			

21 _____
 22 STEVE STORM

23 SUBSCRIBED AND SWORN TO BEFORE ME
 24 THIS ____ DAY OF _____, 20____.

25 _____
 (NOTARY PUBLIC) MY COMMISSION EXPIRES:

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